







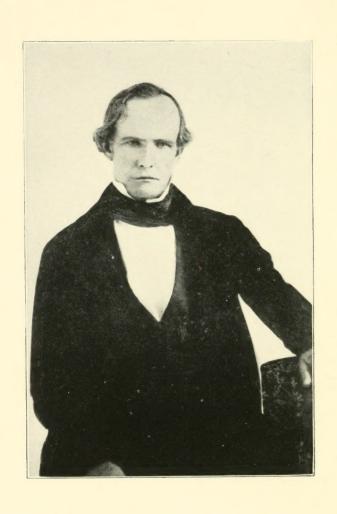




HISTORY OF CALIFORNIA







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PETER H. BURNETT IN 1850

First constitutional governor of California under American rule. Reproduced from a daguerreotype in possession of his son. Peter H. Burnett was born at Nashville, Tenn., November 15, 1807; died at San Francisco, May 17, 1895. He lived in Tennessee and Missouri and in 1843, joined an overland emigrant party for Oregon, where he became a farmer, lawyer, legislator, and judge. In 1848 he came to California with the first gold emigration from Oregon. In 1849 he was made judge of the Superior Court by Bennet Riley, military governor. He was elected governor at the election of November 13, 1849, and was installed on the twentieth of the following month. He resigned on the 9th of January, 1851, to devote himself to his private business, having accumulated a large estate. He was appointed justice of the Supreme Court of California in 1857. In 1863, he became president of the Pacific Bank, retiring from business in 1880.

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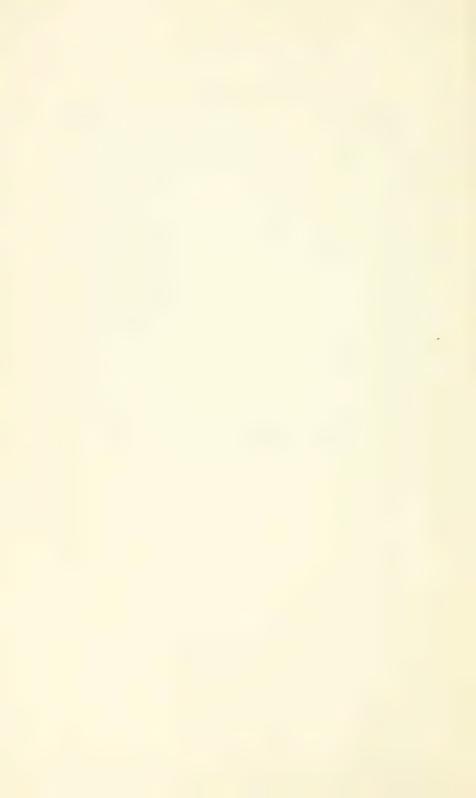
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CHAPTER I. THE BEAR FLAG



HE exciting news which so much alarmed Pico and the assembly, was that a force of sixty-two armed Americans had appeared in the neighborhood of Monterey, and on being warned to leave the country, had retreated to the summit of Gavilan Peak, where they had thrown up barricades, raised the American flag, and so bade defiance to the departmental authorities.

The commander of the party had represented it to be, as it was, a purely scientific expedition, sent out by the United States to explore the still unexplored interior. It was not composed of soldiers, but of trappers and other frontiersmen, and was in command of Captain John Charles Frémont of the topographical engineers. He was then only thirty-three years of age, and a few years earlier had married a daughter of Thomas H. Benton, the famous senator from Missouri, through whose influence at the capital he was supposed to have gained advancement.

This was the third expedition of the kind he had commanded. The first had set out from the Missouri early in 1842, and traveling most of the way with the emigrants of that year, had gone no further than the South Pass of the Rocky Mountains. There the commander, having climbed the highest peak in the vicinity, and viewed the grand spectacle to be seen from that point of vantage, returned east, while the emigrants continued on their way to the Columbia.

In the following year he led another expedition, which, traveling as before, most of the way, at least, in company with the Burnett and Applegate party, reached and followed the Columbia to Fort Vancouver,

the main station of the Hudson's Bay Company on its northern shore, thus connecting the overland survey with that of Lieutenant Wilkes, made by sea in 1841.

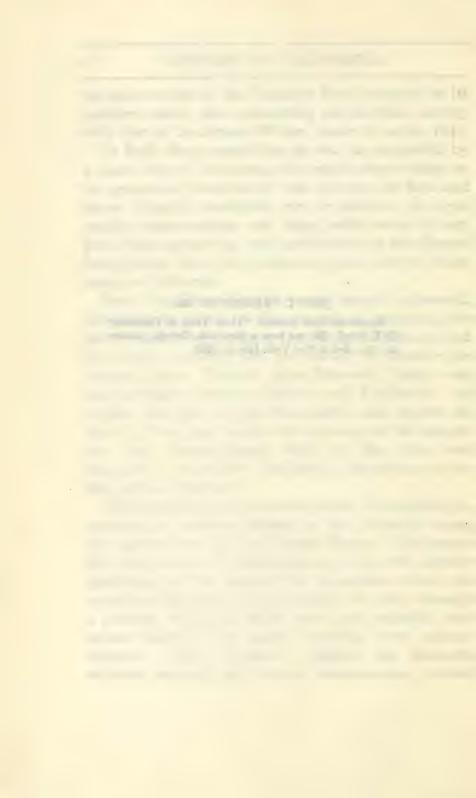
On both these expeditions he was accompanied by a small corps of scientists, who made observations on the geological formation of the country, its flora and fauna, climatic conditions, etc., in addition to topographic measurements and maps, which were of very great value generally, and particularly to the Oregon immigration then just beginning, and later to those going to California.

From the Columbia the party turned homeward, though going south for the purpose of exploring the great basin lying between the Rocky Mountains and the Sierra Nevada; and particularly to observe the country about Tlamath (now Klamath) Lake, near the boundary between Oregon and California; to explore the sink of the Humboldt, then known as Mary's River, and to solve the mystery of the legendary river Buenaventura, which at that time was supposed to flow from the Rocky Mountains to the Bay of San Francisco.

This homeward march was begun on November 25th, following a southern affluent of the Columbia along the eastern base of the Cascade Range. The season was late for such an undertaking. Snow was already glistening on the tops of the mountains when the party started, and as they ascended the river, through a country which no white man had probably ever before visited, they found traveling very uncomfortable. They, however, reached the Klamath without meeting any serious misadventure, turned

JOHN C. FRÉMONT IN 1846

Reproduced from Colton's "Three Years in California" (N.Y. 1852). He was born at Savannah, Georgia, January 21, 1813; died at New York, July 13, 1890.







east, and then south again, discovered and named several lakes, the largest of which was Pyramid Lake, near what is now the eastern boundary of Plumas County, and early in February found themselves on what is now the Carson River, on the eastern side of the Sierra Nevada. They had missed the Humboldt and found no indications of the Buenaventura: and their provisions being nearly exhausted, the commander resolved to force the snow covered mountain range, although the Indians assured him this was impossible. Not one of them could be hired to act as guide, but having with him two mountaineers of long experience, Christopher (Kit) Carson and Thomas Fitzpatrick, their assistance was not necessary. The crossing was made a little south of Lake Tahoe, in a little more than thirty days, the party arriving at Sutter's fort on March 8th, with thirty-six of the sixty-five animals with which they had attacked the mountains.*

After a rest of two weeks, and reproviding themselves with fresh animals and other supplies, the party explored the San Joaquin Valley to its southern limit—passing out of it by the Tehachipi Pass, apparently, instead of Walker's Pass as intended—and returned east via Salt Lake. In the San Joaquin Valley only one unnamed river was crossed that seemed worthy of special mention, and this, because it flowed into a lake of considerable size (Tulare Lake), Frémont distinguished in his report as the River of the Lake.

^{*}Some had been lost by falling down the steep mountain sides, some had died from exhaustion, and some had been killed for food; one meal, on February 13th having been made on pea soup, dog and mule meat.

This party attracted no attention in California except at Sutter's. In fact before arriving and after leaving that settlement, it had passed through only uninhabited parts of the department, and if those in authority knew of its coming and going, it caused them no concern.

After his return from each of these expeditions, Frémont had prepared very careful reports which were published by the government. These were widely read and very justly admired, for they were graphically, though modestly written, and contained much valuable information about a vast region, which until then had never been scientifically explored. Hosts of trappers and hunters had been going to and fro and up and down in it for a score of years; missionaries, men and women, had crossed it, and now long trains of settlers' wagons were going through its northern part every season. Frémont made no pretentious claim of being either a discoverer or a pathfinder, but gave generous credit to his guides, Carson, Fitzpatrick, and others for leading the way, wherever he had gone. The "pathfinder" claims were made for him rather than by him, at a later time and under the stress of a national campaign, when as the candidate of a new party which had chosen him as its standard bearer-because he was unknown to fame in the political field, and it was necessary to make the most of what he had done in other ways—he was, as quaint old Senator Nesmith of Oregon said, "given the credit of finding everything west of the Rocky Mountains." The honors thus thrust upon him proved a burden rather than a blessing in later years, for the

pioneers resented the report that anyone had found the way for them, and one of them, Joe Wyatt of Oregon, a plain spoken man who was accustomed to say what he thought in any presence, is reported to have told Senator Benton in later years, that "that son-in-law of yours made his reputation as a pathfinder by following women and children across the plains." There would have been no cause for such an inconsiderate remark had Frémont's reputation been allowed to rest on his own representations.

He led a third exploring expedition to the west in 1845, which came by a more direct route than that followed by either of the others, to Walker's Lake in Utah. It was composed of sixty-two men, including six Delaware Indians; all the others, like those of his former expeditions, were scientists or mountain men chosen for their familiarity with the wilderness, and for their skill as hunters.

At Walker's Lake the party divided on November 29th, Frémont with fifteen men going across the range to Sutter's fort for fresh supplies, while the remainder, with Joe Walker as guide, went south, intending to cross by Walker's Pass into the San Joaquin Valley, where Frémont was to rejoin them with the needed supplies, on what he had called the River of the Lake. It transpired later that Walker supposed this to be Kern River,* while Frémont had Kings River in mind.

Crossing the range by way of the Truckee River, Frémont reached Sutter's on December 10th, where, having obtained the supplies required, he hurried

^{*}Named for Edward M. Kern, a member of his party, and artist of the expedition.

south, reaching Kings River on the 22d. Not finding Walker and his party as he expected,* he returned to Sutter's. Walker meantime had crossed by the pass through which he had left California when in Bonneville's employ, and which still bears his name, to Kern River, where he expected Frémont to meet him. Camping at the forks of that river on December 28th, he had remained there until January 18th, when, unable to understand the non-arrival of the captain and the expected supplies, he started north.

On returning to Sutter's fort, Frémont had found Captain W. S. Hinckley and W. A. Leidesdorff of Yerba Buena there, and with them was handsomely entertained at dinner by Sutter. Accompanied by them he went to Yerba Buena, and thence with Hinckley, a day or two later, to San José, and the quicksilver mine at New Almaden, where Andrés Castillero had made some interesting experiments proving the richness of the deposits, during the preceding year. On January 24th, in company with Leidesdorff, who in the preceding October had been appointed vice-consul at Yerba Buena by Larkin, he started for Monterey, arriving there on the 27th. They appear to have remained at Larkin's house without seeking or receiving official attention of any sort from California officials, until the 29th, when Prefect Manuel Castro sent Consul Larkin a note asking why United States troops had entered the department, and their leader had come to Monterey.

The troops referred to in this inquiry were the fifteen men who had crossed the mountains with

^{*}They were at the time waiting for him about eighty miles away.

SAN FRANCISCO IN 1846

Reproduced from a lithograph for "The Beginnings of San Francisco."







Frémont, and were now at Yerba Buena, whence the prefect had been informed of their presence by Subprefect Guerrero. The Walker party were at that time south of the San Joaquin, and Frémont himself did not know where they were, except that, if still living, they were somewhere in the southern part of the valley. He replied, through the consul, that he had come by order of the United States Government, to survey a route to the Pacific; that he had left his company of fifty hired men, not soldiers, on the frontier of the department to recruit themselves and animals: that he had come to Monterey to purchase supplies, and that when his men and animals were sufficiently recruited, he intended to pursue his explorations toward Oregon. These statements were repeated subsequently in a personal interview with the prefect, at which General José Castro, ex-Governor Alvarado, the alcalde of Monterey, and Consul Larkin were present, and appear to have been received as satisfactory. Though no express permission was given to return and recruit, as he desired to do, it was not refused. It would indeed have been idle to refuse it, since the party was then supposed to be on Kings River somewhere near its headwaters, or full two hundred miles in a direct line from Monterey, where there was nobody to be disturbed by its presence; and had the authorities determined to order its departure, they were without means to enforce the order.*

^{*}In his testimony at the court-martial, Captain Frémont said: "I explained to General Castro, the object of my coming into California, and my desire to obtain permission to winter in the valley of the San Joaquin for refreshment and repose, where there was plenty of game for the men and grass for the horses, and no inhabitants to be molested by our presence. Leave was granted, and also leave to continue any exploration south to the region of the Rio Colorado and the Gila"—

Having thus arranged matters, Frémont returned by way of the Santa Cruz Mountains, to San José, or at least to the Santa Clara Valley.

The Walker party meantime had moved north across the San Joaquin in search of their captain, and on February 6th, reached the Calaveras River. where they learned from a hunter that he was at San José, whither Walker with one companion went to meet him. The remainder of the party followed a few days later, and on the 15th, the reunited force camped at Laguna rancho, a short distance south of the pueblo. Here they remained a week, during which time the camp was visited by a respectable ranchero, who claimed two or three horses that he recognized as having been stolen from him some months earlier. The animals were not given up to him and he was ordered from the camp. He applied to the alcalde at San José to recover his property, and secure him satisfaction for the insulting manner in which his claim had been refused; and the officer made the matter the subject of an official letter, to which Frémont replied that one of the horses claimed had been brought from the United States, and added: "The insult of which he complains, consisted in his being ordered immediately to leave camp. After having been detected in endeavoring to obtain animals by false pretenses, he should have been well satisfied to escape without a severe horse-whipping. * * * You will readilv understand that my duties will not permit me to

Senate Executive Document, No. 33, 30th Cong. 1st session. The same version of the matter was given by Senator Benton and the secretary of war. In a later statement (The Century, Vol. XIX, p. 921) Frémont says: "My purpose was to get leave to bring my party into the settlements in order to refit and to obtain the supplies that had now become necessary."

appear before the magistrates of your towns on the complaint of every straggling vagabond who may visit my camp. You inform me that unless satisfaction be immediately made by the delivery of the animals in question, the complaint will be forwarded to the governor. I would beg you at the same time to enclose his excellency a copy of this note."

Whatever may have been the justice or injustice of the claim made, it is not possible to compliment the captain's discretion in holding language of this sort under the circumstances in which he then was. He was in a foreign territory with which his own was not at war, with an armed force which he had no right to bring into it. He had explained to the authorities that he had come in search of supplies and refreshment, and had been tacitly allowed to recuperate his forces at a point two hundred miles distant, in an unsettled region, where there were none to be disturbed by their presence; and had then come directly into the most thickly settled neighborhood where, while resting and recuperating (supposedly at least) he pretended to have no time to give the lawful authority of the country respectful attention. As if in this he had not sufficiently shown his contempt for the government into whose jurisdiction he had come seeking hospitality, he added a request that a copy of his contemptuous expressions might be sent to the governor.

When it is remembered that the cause of all this bluster was a mere trifle, it is more than ever difficult to understand why the young commander should have allowed it, much less made use of it to bring him into conflict with those whom he ought to have been careful

to conciliate. Horses were things of small value in the region through which his main party had just come. He had himself seen whole troops of them running wild there two years earlier, while those broken to saddle—and undoubtedly recently stolen from the rancheros—were easy to be obtained from the Indians. Whether the horses claimed had been stolen or not, they could easily have been replaced at the cost of a few dollars; and even if one of them had been brought from the states, as claimed, it seems certain that a more considerate, if not more prudent commander, would have given it up, rather than make it a cause of irritation.

At the end of a week, camp was broken, but instead of marching north toward Oregon as the captain had promised, or south as he later said he had permission to do, he moved west to the Santa Cruz Mountains, which he crossed, following the line of the railroad of the present day by way of Los Gatos and the redwoods to Santa Cruz, and thence following the coast to the Salinas Valley where he turned east, and on March 3d, camped near Hartnell's rancho, known as Alisal, about ten miles east of Salinas and not more than twenty from Monterey. This circuitous excursion was made with deliberation, occupying more than a week, and apparently for the sole purpose of making a display. It would indeed be difficult to guess any other, since Frémont himself had twice ridden through the country within a month, and could have gained no information about it, by taking his whole force with him, that he did not already possess.

At Alisal another unpleasant incident occurred. Three members of the party visited the house of a ranchero, who happened to be an uncle of General Castro, and offered some indignities to one of his daughters. The father, an elderly man, resented the insult, and was threatened with a pistol, which he wrenched from his assailant's hand and rolled him on the floor. No official notice of this indignity appears to have been taken.

Frémont had been two days at Alisal, without giving any indication of intending to leave the department, when on March 5th, Comandante Castro sent him this formal notice: "This morning at seven, information reached this office that you and your party have entered the settlements of this department; and this being prohibited by our laws, I find myself obliged to notify you that on receipt of this you must immediately retire beyond the limits of the department, such being the orders of the supreme government, which the undersigned is under the obligation of enforcing." Prefect Castro from San Juan Bautista, sent a similar, though somewhat more emphatic notice, reminding him that he had "entered the pueblos of the district under my charge, with an armed force, on a commission which the government of your nation must have given you to survey solely its own territory. Therefore this prefecture orders you, as soon as you receive this communication, without any excuse, to retire with your men beyond the limits of this department; it being understood if you do not do it, this prefecture will adopt the necessary measures to make you respect this determination."

As he was clearly in the wrong, Frémont had no reason to complain at the tone of either of these communications. Indeed considering the fact that the Castros, and everybody else in the neighborhood, must easily have remembered the unannounced coming of Commodore Ap Catesby Jones to Monterey, only a little more than three years earlier, and what followed, the notices must be regarded as very temperate.

Frémont did not honor either with a written reply but instead sent a verbal refusal to comply with them, and that evening moved his camp to Gavilan Peak, where he hastily constructed some breastworks of logs over which he defiantly raised the flag of the United States. This was in effect to bid defiance to the people of whom he had asked and had been receiving favors; among whom he had come with his armed frontiersmen with consent only reluctantly given, and remained contrary to all his own representations.

Both the Castros—the general at Monterey and the prefect at San Juan Bautista—began preparations for an attack, and Larkin, taking alarm at what he saw going on, sent letters to them recommending that any party sent to Frémont's camp, should be commanded by a discreet officer, so that no collision might be brought on unnecessarily, or through either party misunderstanding the intentions of the other. On the eighth the prefect replied that his warning notice had not been founded on false reports or appearances; that it was required by law and by his instructions, oft repeated, and urged the consult o impress upon Frémont the need of complying with it, if he would avoid the consequences of his having illegally entered

the department. The consul promptly enclosed this letter in one of his own in which, after informing Frémont that Castro would soon have a force of two hundred men at his command, and that people generally were very much surprised and excited over what he had done, continued: "In all probability they will attack you; the result either way may cause trouble hereafter to resident Americans. * * * Should it be impossible or inconvenient for you to leave California at present, I think, in a proper representation to the general and prefect, an arrangement could be made for your camp to be continued, but at some greater distance; which arrangement I would advise if you can offer it."

Copies of this letter with its enclosure, were sent by two couriers, one an American, and one a Californian. The American was captured by Castro, but the other made his way safely to Frémont's camp, where he arrived late on the afternoon of the ninth, and soon after returned with the following answer, written in pencil: "I, this moment, received your letters, and without waiting to read them, acknowledge the receipt which the courier requires instantly. I am making myself as strong as possible, in the intention that if we are unjustly attacked, we will fight to extremity, and refuse quarter, trusting to our country to avenge our deaths. No one has reached my camp, and from the heights we are able to see troops—with the glass mustering at St. John's [San Juan] and preparing cannon. I thank you for your kindness and good wishes, and would write more at length as to my intentions, but I fear that my letter might be intercepted. We have in no wise done wrong to the people, or the authorities of the country, and if we are hemmed in and assaulted here, we will die, every man of us, under the flag of our country."

There are a few curious things about this letter that deserve a passing comment, particularly as it has been much exploited as both a patriotic and heroic defiance. First it was written in reply to a letter from a friend, which had been sent him with some difficulty, and should contain information of value; and yet it was answered without reading because "the messenger requires an answer instantly." It would seem that with sixty-two expert riflemen, holding a fortified position, with no enemy that could be seen without a glass, the messenger might have been detained, even against his will, until an important letter could be read, before answering it. Again this defiant declaration about "refusing quarter," made as it was to Larkin and not to Castro, an ally and not an enemy, was clearly nothing but the boasting of "one who putteth his armor on." While it is not entirely clear whether the resolution was not to give, or not to accept quarter, in case of extremity—Hartnell is reported to have translated the expression "refuse to give quarter" —it can make but little difference what was intended; for both parties had a boundless wilderness at hand, in which some remnant at least of either might have found refuge from even the most barbarous slaughter.

There are fine instances in history of beleaguered garrisons bidding honest defiance to an investing enemy. Notable among them were the answers sent by the starving inhabitants of Londonderry to the

brutal Rosen, by the burghers of Leyden to the soldiers of Spain, and the conduct of our own George Croghan at Fort Stephenson; but the bluster of Frémont at Gavilan Peak is not to be compared with these, for they intended to make their defiance good while he did not. The impatient messenger bearing his message had scarcely left his camp before he began to prepare for retreat, and during the night of March oth, he abandoned the fort and camp which he had held for two days, with no enemy appearing, and then "retired growlingly," as he wrote to Mrs. Frémont, toward the San Joaquin. Doubtless his sixty-two frontiersmen retired growlingly enough, for they were, like all their kind, always ready to fight. Most likely they would not have gone at all if they had not supposed they had been ordered away by some authority superior to that of their commander.*

Relieved for the time being of the presence of this threatening danger, Castro and Pico resumed their disputes, which grew warmer as time passed. Castro issued a proclamation rather boastfully announcing that "a band of highwaymen" who had dared to "unfurl a foreign flag in the department," had "at the sight of two hundred patriots, abandoned the camp which he occupied, leaving in it some clothing and other war material"†—and calling upon the Californians to prepare to defend their independence, gave offense in the south, because no mention was made in it of the prefect's share in repelling the intruders. Pico invited Castro to meet him at Santa

^{*}Martin, who was one of Frémont's men has left a manuscript in which he says they were ordered away by Larkin.
†Frémont had left some worn out articles of no value in his abandoned fort.

Barbara for a conference, but Castro refused to go, and urged the governor to come to Monterey. This invitation Pico declined, and emissaries sent back and forth, failed to bring about a better understanding. The general government in Mexico was informed of what had taken place, and appealed to for assistance; but while it as usual promised much, it did nothing, being in fact too busy with its troubles at home, and prospective troubles about Texas, to do so. Castro was no doubt irritated by criticisms of his management of the Gavilan Peak affair, which had in fact been excellent, as it had accomplished all that was sought without conflict; but once the danger was past a few valiant souls who had never smelled powder, and were never likely to, loudly censured him for not having charged up the peak and driven the invader from an almost impregnable position. In his disturbed state of mind he would agree to nothing that Pico proposed, and Pico, who by this time had received his appointment as governor propietario from the capital, was equally implacable.

It was as the result of this state of affairs that the assembly had, after full deliberation, resolved to call a convention representing the whole people to meet at Santa Barbara, to take into consideration the state of the department and, if possible, propose some solution for its present difficulties.

While Pico and the assembly were considering this matter at Los Angeles, Castro summoned a junta of military men, including Vallejo—who had shown no more than a good citizen's interest in public affairs since he had disbanded his soldiers more than a year

earlier—to meet at Monterey and advise him as to the policy he ought to pursue. This junta met on April 2d, and one of its first acts was to declare for the pronunciamiento of San Luis Potosí, which had been put forth by General Paredes in Mexico in the preceding December, and expressed undying hatred of the United States. Paredes was now president of Mexico, and the junta was doubtless influenced by that fact in expressing approval of his policy. But it also did more; it declared all the acts of his precedessor null and void, and as one of these had been the appointment of Pico, the declaration gave great offense to his supporters.

Soon after this declaration was announced in April, the junta was convened again to concert measures against Frémont, now well on his way toward Oregon. Its members, however, appear to have known nothing of his whereabouts, and perhaps supposed him to be still lurking somewhere in the vicinity; for they resolved that Castro's presence in the north, the only point threatened, was indispensable. They also expressed the opinion that Pico ought to come north, at least as far as Monterey; but if he would not do so, the comandante should prepare to meet the threatening danger as best he might. He was advised to establish his headquarters at Santa Clara, and take all necessary steps to utilize the patriotism of the people in defense of their country.

This was in effect to advise Castro to proclaim himself dictator, and the governor protested vigorously. Castro on the other hand protested even more violently and vigorously against the plan for a convention at Santa Barbara, saying it was a proceeding unknown to the laws, ruinous, treasonable and preposterous. He begged the governor not to permit it to be held, declared his own purpose to defend the department at all hazards, and finally declared it in a state of siege and under martial law.

While this quarrel between Pico and Castro, the military and the civil authorities, the north and the south in California, was hastening to the crisis it reached late in May, Lieutenant Archibald H. Gillespie, of the United States marine corps, had arrived in Monterey on April 17th, with a most important message for Consul Larkin. He had come direct from Washington to Vera Cruz, across Mexico to Mazatlan, and thence on the sloop-of-war Cyane, by way of the Hawaiian islands, to Monterey. The only written communication be bore for the consul, was a letter of introduction from James Buchanan, then secretary of state in Mr. Polk's cabinet. The important message was a letter of instruction which he had committed to memory while on the way to Vera Cruz, and then destroyed so that it might not by any contingency fall into unfriendly hands. This message the lieutenant wrote out, after presenting his letter of introduction, and another copy the consul received some weeks later by the hand of Commodore Stockton.

This letter informed Larkin that he had been appointed a confidential agent of the United States, and also contained the instructions as to what he was expected to do, and how he was to proceed. It opened by referring to the fears the consul had frequently expressed in recent letters, that Great Britain desired

to acquire California, and that through its war ships then on the coast it might seize an early opportunity to declare a protectorate over it.* This, he was informed, he should exert the greatest vigilance to defeat, as our government could not view with indifference the transfer of California to Great Britain, or any other foreign power. Any system of colonization by foreign monarchies on the North American continent must and would be resisted by the United States. It could result in nothing but evil to the colonists under their dominion, who desire to secure for themselves the blessings of liberty by means of republican institutions; while it would be prejudicial to the best interests of the United States. Nor would it in the end benefit such foreign monarchies, as it would sow the seeds of future war and disaster. There was no truth more certain than that this fine province could not long be held in vassalage by any European power; the emigration to it of people of the United States would make it impossible.

But while the new confidential agent was thus warned to be vigilant, and use all proper means to defeat the ambitious designs of European powers, he was assured that in any contest between Mexico and California we could take no part unless the former should commence hostilities against the United States;

^{*}Larkin was dissatisfied with his compensation as consul, and was no doubt making the need for the services of a vigilant officer, to be paid in proportion to the value of his efforts, seem as urgent as possible. His anxiety on this score diminished notably soon after he received his new appointment with its salary of six dollars per day, and expenses.

"but should California assert and maintain her independence, we shall render her all the kind offices in our power, as a sister republic. This government has no ambitious aspirations to gratify, and no desire to extend our federal system over more territory than we already possess, unless by the free and spontaneous wish of the independent people of adjoining territories. The excuse of compulsion, or improper influence to accomplish such a result would be repugnant both to the policy and principles of this government."

In his new capacity, Larkin was to prudently warn the government and people of California, on all proper occasions, of the danger of permitting European powers to interfere in their affairs; to inspire them with jealousy of European dominion, "and to arouse in their bosoms that love of liberty and independence so natural to the American Continent." While the president would make no effort, and use no influence to induce California to become one of the free and independent states of the union, "yet if the people should desire to unite their destiny with ours, they would be received as brethren, whenever this can be done without affording Mexico just cause of complaint. Their true policy for the present in regard to this question, is to let events take their course, unless an attempt should be made to transfer them, without their consent, either to Great Britain or France. This they ought to resist by all means in their power, as ruinous to their best interests, and destructive of their freedom and independence."

In order not to awaken the jealousy of the French and English consuls or other agents in the country, Larkin was not to appear in any other than his consulor character, and he was to rely on Gillespie to aid him in carrying these instructions into effect.*

These instructions had been prepared October 17th, just six months to a day before Larkin received them. In preparing them Buchanan had far better means for divining what England's intentions with regard to California were, than Larkin had. He knew that in the negotiations in regard to Oregon in 1824, she had abandoned all claim to any part of that territory lying south of the Columbia. He knew also that those now in power in her government were more anxious than they had been to have the northwest boundary settled. He had recently been himself in negotiation with a British plenipotentiary in regard to that matter, and although the negotiation had been suspended at the time, he had reason to feel sure it would soon be resumed. It was not probable that any fresh cause of controversy would be sought while this negotiation was pending. It was far less probable that Great Britain would seek to acquire a new and separate territory on the coast, whether she should be able to hold the region claimed north of the Columbia or not. He did not of course know, what the world now knows, since the correspondence of the British foreign office in regard to it has only recently been published, but

^{*}For full copy of this letter, see Appendix at end of this volume.

if he had known it, he could scarcely have been more sure of his ground than he was.* However, in the management of a matter of this importance, it was necessary not to ignore any information that future events might show to have been more important than it seemed. He therefore placed the matter where he knew it seemed to Larkin to be, and instructed him accordingly.

Things could hardly have been in better condition to encourage hopes of success than they were at the time these instructions arrived; and Larkin's long acquaintance among the Californians, as well as his natural talents, admirably fitted him for the delicate task he was to undertake. While the Californians were not lacking in patriotic ardor, they were loyal to California rather than to Mexico. For a generation the Mexican government had done nothing for them but send them governors they did not want, and make promises it did not

^{*}Prof. E. D. Adams of Stanford University has admirably summarized this correspondence in the American Historical Review for October, 1908. In it the statement is more than once repeated that Her Majesty's Government was "not anxious for the formation of new and distant colonies." Packenham, who was representing Great Britain at the Mexican capital in 1841, and Barron who was consul at Mazatlan, had shown some enterprise in urging that California should be acquired, but had received no encouragement. In reply to both, Aberdeen, then in the foreign, and Stanley, in the colonial office, declared that they were not seeking new and distant colonies. When Forbes, then vice-counsel in California, ventured to inform the Californians that "while Great Britain does not pretend to interfere in the political affairs of California, she would view with much dissatisfaction the establishment of a protectorate over this country," he was reproved, and his declaration disavowed. (Forbes was at the time in charge of the Hudson's Bay Company's establishment at Yerba Buena, having succeeded young Rae who, in a fit of despondency, had committed suicide, and it was probably on account of his anxiety to collect bills due the company from Pico's government, or from Sutter, on account of his connection with the Micheltorena campaign, that he ventured to pretend to speak for his government.) In May, 1846, Paredes, then president, directly offered through the British minister to transfer California to Great Britain as security for a loan, but when the offer reached Palmerston, who was in office once more, he was in no hurry to reply to it. On August 15th, he wrote: "Her Majesty's government would not at present feel disposed to enter into a treaty for the acquisition of California, and the more because it seems, according to recent accounts, that the Mexican government may, by this time, have lost its authority and command over the province." In this surmise he was quite right, as the war with Mexico had begun in May, and in July Sloat h

keep. It provided nothing for their defense, imposed vexatious regulations on their trade, and restricted rather than encouraged their activities. It had left their harbors, and long line of coast, stretching through nearly ten degrees of latitude, and more than seven degrees of longitude, as well as their still more extensive frontiers on the east, north, and south, wholly undefended; and called upon them to protect from invasion a vast region which they did not occupy and had never They were weary of the turmoil and confusion which almost continually attended their governmental affairs, and many, perhaps most of them, realized that the surest way to secure it would be through independence, or to invite the protection of some foreign power. Even Castro at times talked hopefully of independence at no very distant day, when there should be enough foreigners in the country to insure success.*

Such had been the temper of the Californians when Frémont made his spectacular appearance in their settlements, and raised his own flag within sight of their capital, in total disregard of international courtesy, and in defiance of all law. That incident had not been forgotten, but few suspected Larkin of having been in any way responsible for the act, and most of these were soon persuaded of their error. On the very day that he had sent his messenger to Frémont on Gavilan Peak, he had sent off a hurried message to the United States fleet at Mazatlan, asking that a war ship might be sent immediately to Monterey, or San Francisco, to protect American citizens who might soon be in peril on account of Frémont's rashness,

^{*}Larkin to Buchanan July 20, 1846—cited by Royce, California, p. 162. Also see Bancroft, History of California, Vol. V, p. 72 and Eldredge, Beginnings of San Francisco, p. 422.

and in response to it the sloop-of-war *Portsmouth*, in command of Captain John B. Montgomery, an excellent officer, was promptly sent north. She arrived at Monterey April 22d, and a few days later went to San Francisco where she remained for some months. Her arrival created no uneasiness, although she was much more formidable than Frémont's force had been. The instructions of her commander were entirely in harmony with those to Larkin, and his conduct and that of his officers and men, so far as they came in contact with the Californians, helped and in no way hindered the work of the confidential agent.

Larkin's friendly relations with many influential people in all parts of the department, were practically unimpaired; and now with Montgomery and the Portsmouth present, and giving daily proof of the good intentions of the government he represented, his hope of succeeding materially increased. Early in January of that year he had transferred his trading business at Monterey to Talbot H. Green, and was free to devote himself wholly to the work he had in hand. He entered upon it with enthusiasm, and not without confident expectations of success. Within ten days after receiving his instructions, he had prepared a very diplomatic letter, copies of which he sent to influential Americans who were now naturalized citizens of California—one to Jacob P. Leese at Sonoma, one to Abel Stearns at Los Angeles, and one to J. J. Warner at his rancho near San Diego. In this letter he outlined his own opinions as to the conditions in California, and the prospects for a change, and asked them to favor him with their views—to let him know from

JOHN B. MONTGOMERY

Entered naval service as midshipman, June 4, 1812; lieutenant in 1818; commander, 1839; captain 1853; retired December 21, 1861; made commodore and rear-admiral on retired list; died March 25, 1873.

Came in command of the United States sloop-of-war *Portsmouth* in 1845, and raised the American flag at San Francisco, July 9, 1846.

Montgomery street in San Francisco is named for him and Portsmouth square for his ship.

s force





time to time "of any wish on the part of the government or people to change or better their condition."

To this letter Leese replied, rather indifferently, that his views coincided generally with those of M. G. Vallejo, who was his brother-in-law, but this reply was taken to be favorable, since Vallejo's views were generally well known to be favorable to the Americans. Warner said there was a growing feeling in his neighborhood that separation from Mexico must come; all would be glad to be under the protection of the United States, if war broke out, though if it did not, some preferred England. Stearns said that people in his neighborhood were more and more looking for a change, and the sentiment in favor of independence was strong. Many inquired whether the United States would give immediate and permanent protection to California, in case its people should declare for union with the former country. Business men and government officials for the most part thought favorably of any change that would secure stable and permanent government.

Larkin also prepared another document, purporting to express his own individual views, though most of it was transcribed directly from Buchanan's letter. It evinced a most conciliatory and friendly attitude toward the Californians, and expressed the opinion that the United States should at some time possess the country, so that those who had spent their best days in advancing its welfare, might most surely reap their reward. This document he translated into Spanish, and showed it from time to time to people of influence. No signature was attached to it, and no copy was given to anyone.

He also made preparations to attend the convention called by Pico and members of the assembly, to meet at Santa Barbara on June 15th. There were reports that this assembly had been planned with the design of securing an English protectorate, and possibly some of its advocates had that intention; but this did not alarm him, though it was possibly because of them that he arranged to have as many other people as possible attend, who were favorable to his views, in order that they might exert such influence as they had upon its deliberations. He evidently had high hopes of favorable results to follow from this course; and it may well be believed, that in the state of feeling then prevailing, much might have been accomplished had his work not been interfered with.

But the convention never assembled. A few days before the date appointed for its meeting, events occurred in the north that made his efforts, and all others to secure what was aimed at by peaceful means, abortive.

Two days after he had delivered his memorized letter to Larkin, Gillespie started north to overtake Frémont. It nowhere appears, except in an incidental way, that he was required to do so. He was, it is true, the bearer of private letters from Senator Benton and Mrs. Frémont, as well as a letter of introduction from Buchanan to the captain; but it is as certain as anything can be that he had been entrusted with these only in an incidental way. Two cancelled letters in a volume of ordinary letters to consuls in the state department, show that it was at first arranged to send the Benton packet by mail through the consuls at

Mexico and Monterey.* Later it was found that Gillespie was still within call, and there was no reason why he should not carry it. Neither was there any reason why he should make more active efforts to deliver it than Larkin had been asked to make, unless he had some special instructions to add, which both the captain and Gillespie subsequently admitted under oath, he did not have.

In the light of these cancelled letters, it becomes clear that Frémont and his exploring party had no part in the plans of the president and his secretary of state when the confidential letter was written. They could not know whether they had reached California, or whether they might not have left it, and probably did not take them into account in any way. Subsequently, when the packet was received, and it seemed possible that Gillespie might be able to deliver it, it seemed wise to authorize him to acquaint the captain with the contents of the Larkin letter. This it would be most desirable to do, since a United States officer with an armed force, if in or near California at that time, would be likely to cause apprehension if not alarm, and so make it difficult or perhaps impossible for the confidential agent to do the work assigned to

^{*}See Royce's California, American Commonwealth series—p. 144. These letters are dated October 27, 1845, and signed by the secretary. Professor Royce notes that while they bear date ten days later than the confidential letter to Larkin, they were written before Gillespie had set off on his long journey, he having been detained by the non-departure of the vessel that was to carry him to Vera Cruz. Subsequently as it appears, it occurred to someone in the department to send the package by Gillespie; but if he was charged to make any other effort to deliver it than Larkin was desired to make, there is no written proof of it. The letter to Larkin is as follows: "Sir: I enclose herewith a package for Colonel Frémont, of whose movements you may be enabled to obtain some information, and request that it may be transmitted to him by the first safe opportunity which presents itself, or retained by you for delivery, according as the state of your information may suggest. I am, sir, JAMES BUCHANAN."

him. It is possible also that Gillespie may have been authorized to suggest to the captain, in case he should find him conveniently near, to remain within call, in case trouble should arise, though this hardly seemed probable; for such an order or suggestion could properly emanate only from the war department, and it has never been claimed that the war department sent him any message whatever at that time.

Before the secret instructions to Larkin were brought to light (by Bancroft in Volume V of his history, published in 1886, and by Professor Royce in his California, published in the same year), many statements indicating that Frémont had received instructions of a very different character, gained currency. After their publication it became apparent enough that the secretary of state could hardly have sent instructions to Larkin to intrigue for the acquisition of the country by assurances of friendship and good will, making him a special officer with increased pay for that purpose; and by the same messenger have sent word to Frémont to overthrow their government by armed force. Nor did it seem more probable that he would require from Frémont and his armed backwoodsmen, any efforts at conciliation. Armed men, even when inactive, are not likely to be helpful factors in conciliation, unless the only conciliation to be attempted is by force. It is but fair to say, however, that neither Frémont nor Gillespie ever claimed that the instructions one bore to the other called for forceful interposition. Both were careful not to say just what they were, leaving it to be inferred that they justified their action. Frémont testified before the claims committee that Gillespie

had brought him a letter of introduction from the secretary of state, and letters and papers from Senator Benton and family. "The letter from the secretary," as Frémont himself testified before the claims committee, "was directed to me in my private or citizen's capacity, and though importing nothing beyond the introduction, accredited the bearer to me as coming from the secretary of state, and in connection with the circumstances and place of delivery, indicated a purpose in sending it which was intelligibly explained by the accompanying letter from Senator Benton, and by communications from Lieutenant Gillespie. This officer informed me that he had been directed by the secretary of state to find me, and acquaint me with his instructions, which had for their principal object to ascertain the disposition of the California people, to conciliate their feelings in favor of the United States, and to find out, with a design of counteracting, the designs of the British Government upon that country." Gillespie, in reply to a direct question as to whether he was charged with any verbal instruction or communication, answered: "I have to state that I was directed by Mr. Buchanan, to confer with Colonel Frémont, and make known to him my own instructions.* I was also directed to show to Colonel Frémont the duplicate of the dispatch to Mr. Larkin."

Now that Buchanan's letters and the instructions of the war and navy departments to all the officers who were likely to be concerned in the fate of California have been published, it is easy to discover what the policy of Mr. Polk and his cabinet was. They were

^{*}These directed him to cooperate with Larkin.

resolved to acquire California whether war should come or not; and they were equally resolved to procure it by peaceful means if possible. A month before the Larkin letter was written, John Slidell of Louisiana was asked to go to Mexico and if possible open negotiations for its purchase; and when he accepted that offer he was authorized to offer \$25,000,000 for it, and at the same time assume the payment of certain claims of American citizens against the Mexican government, amounting to more than \$2,026,000 in addition.* When Slidell's mission failed, the president turned to Santa Anna, who was then in exile in Havana, and who agreed, if restored to power in Mexico, to consent to the annexation of Texas, by the United States, with the Rio Grande as its boundary, and to cede all of California north of the middle of the bay of San Francisco to the United States for \$30,000,000.

^{*}See Buchanan to Slidell November 10, 1845. The exact language is: "The government of California is now but nominally dependent on Mexico; and it is more than doubtful whether her authority will ever be reinstated. Under these circumstances it is the desire of the president that you shall use your best efforts to obtain a cession of that province from Mexico to the United States. Could you accomplish this object, you would render immense service to your country, and establish an enviable reputation for yourself. Money would be no object when compared with the value of this acquisition. Still the attempt must be made with great prudence and caution, and in such a manner as not to alarm the jealousy of the Mexican government. Should you, after sounding the Mexican authorities on the subject, discover a prospect of success, the president would not hesitate to give, in addition to the assumption of the just claims of our citizens on Mexico, \$25,000,000 for the cession. Should you deem it expedient, you are authorized to offer this sum for a boundary, running due west from the southern extremity of New Mexico to the Pacific Ocean, or from any point on its western boundary, which would embrace Monterey within its limits. If Monterey cannot be obtained, you may, if necessary, in addition to the assumption of those claims, offer \$20,000,000 for any boundary commencing at any point on the western line of New Mexico, and running due west to the Pacific, so as to include the bay and harbor of San Francisco. The larger the territory south of the bay, the better." Works of James Buchanan, John Bassett Mocre, Vol. VI, p. 305, J. B. Lippincott & Co., Philadelphia and London, 1900.

THE CUSTOM HOUSE AT MONTEREY

Where the American flag was raised by Commodore Sloat June 7, 1846.







While it is not believable that Buchanan, experienced as he was in public affairs, could have sent any instructions of any sort to an officer belonging to another department, and under the exclusive control of a fellow member of the cabinet, with whom he was working in entire harmony, and who enjoyed, equally with himself, the confidence of the president, it is unthinkable that while thus engaged with plans for purchasing California, before, at the time of, and after Gillespie's departure, he entrusted him with any suggestion for Frémont but those of the most peaceable character. All other instructions given up to that time, had been of the same general tone and substance as those to Larkin. Commodore Sloat, commanding the fleet in the Pacific, was to avoid all acts of aggression, but should he discover that Mexico had declared war, "you will at once possess yourself of the port of San Francisco, and blockade or occupy such other ports as your force may permit." At the same time he was "to preserve, if possible, the most friendly relations with the inhabitants" and "encourage them to adopt a course of neutrality."* In subsequent orders he was directed to "conciliate the people in California toward the government of the United States," as opportunity offered, "to encourage the people to neutrality, self-government, and friendship," "to establish the supremacy of the American flag without any strife with the people of California"; and if California should separate itself from Mexico and establish a government of its own, he was "to take such measures as will promote the attachment of the people to the United States."

^{*}Bancroft to Sloat, June 24, 1845.

The instructions to General S. W. Kearny, who was to lead a land expedition to New Mexico, and thence to California, were of a similar tenor. On June 3, 1846, at which time as it will appear Frémont and Gillespie were pursuing a directly opposite course, the secretary of war wrote: "In your whole conduct you will act in such a manner as best to conciliate the inhabitants, and render them friendly to the United States."

So far as the government at Washington had directed operations in California previous to June 1, 1846, it had done so without special apprehension that Great Britain would interfere, and without certainty that war with Mexico would ensue; for no messages, sent after hostilities had begun, had yet reached the coast. It is true that the possibility of British interference had been mentioned in the instructions to Larkin and to Sloat. This ordinary prudence demanded, for all possibilities could not with certainty be foreseen; but for reasons already given, we may assume that Mr. Polk and members of his cabinet felt. themselves reasonably secure against British interference, and events proved that they were so. in California were apprehensive both of British interference and of war, and governed themselves accordingly, though it is noteworthy that Larkin's anxieties decreased as he got more and more interested in his new undertaking, and prospects of its success gradually brightened.

Early in June news was spread among the settlers in the Sacramento Valley, and thence to Monterey, that Frémont had returned. Gillespie, accompanied

by five men, secured at or near Sutter's fort, had overtaken him near the upper end of Klamath Lake in Oregon, delivered his letter of introduction, the Benton packet, and repeated to him the instructions to Larkin. The captain had that night decided to return, and enter upon a policy directly opposed to that enjoined by an official communication from the highest authority. This decision, he tells us in his memoirs,* was based on the private letters from Benton, and what he claims to have learned of the policy of the administration before leaving Washing-Secretary Buchanan, he tells us, used to come frequently to Senator Benton's house, where in the seclusion of the senator's library, he discussed the plans of the administration with him and Senator Dix of New York. Benton and his daughters would sometimes translate official letters written in Spanish for him because he did not care to have the translators in the department know their contents; and then the secretary and the two senators would discuss them in the presence of the family. Frémont would have us believe also that, although an officer of another department, whose chief was not present at these consultations, he was given instructions by those who could have no authority to give them, that were to govern his actions a year later. Having the information and the instructions, so received, in mind, the letters, though written in a family cipher and somewhat enigmatical, "threw their own light on the communication from Mr. Gillespie," i.e., the Larkin instruction,

^{*}Memoirs of My Life—by John Charles Frémont, Belford Clark & Co., Chicago, 1887—p. 489.

"and made the expected signal." In substance their effect was: "The time has come. England must not get a foothold. We must be first. Act; discreetly, but positively."* And on the same page he says: "Now it was officially made known to me that my country was at war, and it was so made known especially to guide my conduct."

The Benton letter has never been made public, but it is difficult to guess how he could officially make known, in October, that the country was at war, when the war did not begin until the following April. The first hostile act had been committed only sixteen days before the date of which Frémont is writing, and at a point two thousand miles distant, between which and the coast there was no regular communication. Sloat at Mazatlan had not yet heard of it. Gillespie could not know of it. Nobody on the coast knew it.

It is equally difficult to understand how Frémont could rely upon anything contained in a private letter written six months earlier, as countermanding plain official instructions, penned about the same time. The Larkin instructions, which both he and Gillespie admit were communicated to him—Gillespie in fact asserts that he was directed to communicate them to him—not only enjoined conciliation, but repeatedly enjoined it. "This government has no ambitious operations to gratify," "no desire to extend our federal system over more territory than we already possess, unless by the free and spontaneous wish of the independent people of adjoining territories," "the president will make no effort, and use no

^{*}Memoirs of My Life, p. 489.

influence to induce California to become one of the free and independent states of the Union; yet if the people should desire to unite their destiny with ours they would be received as brethren," "their true policy is to let events take their course." "You may assure them of the cordial sympathy and friendship of the president." "This government does not, under existing circumstances, intend to interfere between Mexico and California." These were the positive and repeated declarations of the official communication he had received, and yet, we are assured that a personal and unofficial letter contained, though enigmatically, instructions of an opposite, and more authoritative character.

If we could certainly know how Frémont and Gillespie hoped to justify what they now resolved to do, we should probably find that they relied on the single statement in the Buchanan letter that "should California assert and maintain her independence, we shall render her all the kind offices in our power as a sister republic." California had not yet asserted, or shown any inclination to assert her independence; but such an inclination might be discreetly encouraged by two young and ambitious military men, and once started, opportunity might open for an offer of those "kindly offices" which the letter suggested. At any rate a pretended effort to assert, if not to maintain independence was soon made, though no Californians took part in it, and the "kindly offices" followed.

Frémont reached the Buttes north and west of the present town of Marysville, and pitched his camp on the southern side of them on May 30th. There was at that time no sign of unrest or uneasiness among the settlers. No one of them had been notified to leave the country, as all had been told they might be required to do, in the preceding November. There had not been a hint of such notice. Indeed Pico and Castro had been too busy with their own quarrel, and with their separate plans for doing what each thought it might be necessary to do in case of war between Mexico and the United States, to think much about matters on the Sacramento, where most of the immigrants still remained.

Pico had taken serious offense at the military junta held at Monterey in March and April, particularly at its declaration in favor of Paredes and his plan of San Luis Potosi. He regarded it as a menace to his own authority, and reproached Vallejo for having taken part in it. Castro, suspicious of Gillespie's mission toward the north, protested there was danger of Frémont's return, and that there was every reason why he should prepare as he could for defense;* he had assembled the junta only to advise him. He complained also because the governor had failed to come north to assist him. Finally, on May 28th, he declared the department in a state of siege and under martial law. The assembly on the other hand authorized Pico to raise a force, ostensibly for the general defense, but in reality for his own, and in secret session

^{*}Sutter had notified Castro, after Gillespie had gone north from his place, that he was an officer of the United States, that he was the bearer of dispatches for Frémont, and that Frémont might possibly return. This notice it was his duty, as an officer of the government, to send. He was also, at the time, hoping to sell his fort and other property to the California government, and doubtless saw the value of an opportunity to invite attention to the advantage it offered, or might offer, in case of invasion from that direction.

removed Castro from command. By the time Frémont had returned to the Sacramento, the Californians were really in arms against each other, and thinking little, if at all, about expelling American settlers.

Immediately after Frémont's return, rumors began to fly through the valley that Castro was raising a force to attack the settlers; that he was inciting the Indians to burn their wheat fields, and that he had posted copies of a proclamation in various places, ordering all who were not naturalized to leave the department forthwith or they would be driven out.

These rumors do not appear to have alarmed the settlers who had taken claims in the valley, of whom John Bidwell says: "These were not at the time more than twenty one,"* several of whom, like Sinclair and Johnson had been there long enough to know the habits of the Californians well. They had no fear whatever about Castro coming to attack them. Bidwell says, "on the contrary they [the settlers] were able, as they knew, to cope with any force he could bring against them." If there had been any real danger they had most reason to be alarmed, for their wheat fields were the largest if not the only ones the Indians could burn. They also knew the character of the Indians, and that Castro had no friendly relations with them. They were in fact so far away from the region he was supposed to protect that he had probably never come in contact with them. As to the proclamation it is now positively known that it never was issued, and if any pretended copies were posted, they

^{*}Manuscript, Bancroft library, p. 159.

were forgeries. Whatever they were, no copy has been preserved, nor has any responsible witness ever testified to having seen one.

The rumors were false and have never been traced to their source, unless they originated in Frémont's camp, and were a part of his plan. False as they were, they served their purpose quite as well as if true with another class of people. Of these Bidwell says: "There were a good many without homes, or any intention of making homes, staying, some at the places occupied by others, and some—and by far the greater part—occupied about the Scaramento Valley, hunting. This floating population would probably number three times as many as those permanently settled." These were of course ready for any adventurous enterprise, and willing to follow anybody who would lead them, particularly if he claimed to represent some responsible authority.

Following the rumors mentioned, something seemingly more tangible made its appearance, in the form of a written document, a copy of which was handed to William B. Ide—one of the settlers who had arrived in the preceding year, and who was at the time at Belden's rancho, Barranca Colorado, now Red Bluff—by an Indian messenger on the forenoon of June 8th. Of this paper Ide was later able to furnish only a part, as it had been folded and worn in two at the fold and the bottom part of the sheet lost. So far as preserved the paper read: "Notice is hereby given that a large body of armed Spaniards on horseback, amounting to two hundred and fifty men, have been seen on their way to the Sacramento Valley, destroying the

crops, burning the houses, and driving off cattle. Captain Frémont invites every freeman in the valley to come to his camp at the buttes immediately, and he hopes to stay the enemy and put a stop to his—"*

If this paper ever was circulated, as Ide savs it was, it seems certain that it was issued by Frémont, or by his authority, or somebody would have been punished by him for spreading such a false and alarming report, and inviting people in his name to visit his camp. In response to it Ide did visit his camp, and most likely told him why he had come, but says nothing about the authenticity of the notice having been questioned. Instead, Frémont "advised immediate organization and resistance on the part of the foreigners," but declined any action on his part, or that of the men under his command; stating also that he expected soon to leave for the east. After they should have organized, he proposed this plan of action: "First select a dozen men who have nothing to lose but everything to gain; second, encourage them to commit depredations against General Castro, the usurper, and thus supply the camp with horses necessary for a trip to the United States; third, make prisoners of some of the principal men, and thus provoke Castro to strike the first blow in a war with the United States. This done, finish the conquest by uniting the forces and marching back to the States."

This plan did not commend itself to the honest New Englander, who says he told the captain: "It would be a long time before he would consent to, or join any set or company of disreputable persons, who first

^{*}A Biographical Sketch of the Life of William B. Ide, p. 113.

commit an outrage, and then dishonorably leave the country, and others to settle the difficulty, or endure its consequences." This remark Frémont resented, but it appears that his arguments finally prevailed; for Ide joined the crusaders, though he did not participate in the earlier depredation that was to "supply the camp with horses."

That undertaking was already in progress while Ide and the captain were talking. It had been reported that a band of horses had been collected at Sonoma, and were then on their way to Castro's camp at Santa Clara. They were in charge of Lieutenant Arce and eight or ten men, and as they had no means of conveying them across the bay, they had taken the road by way of Knight's Landing, a short distance below Sutter's fort, where the party crossed the Sacramento. It was represented that these horses were to be used by Castro in a raid on the settlers and that he was already on the march with four or five hundred men for that purpose. It does not appear to have occurred to any one that ten or twelve men was a very small escort to depend upon to convey one hundred and seventy horses through an enemy's country; or that if they were to be used, as represented, to drive the settlers out of the country, that they should have been sent at all where the settlers could see them.

A party of ten or twelve Americans attacked this escort on June 9th, soon after it had crossed the river and captured the horses. Bidwell thinks there were no permanent settlers in this party, and it was probably wholly composed of persons such as Frémont had described—"who had nothing to lose and every-

thing to gain." Ezekiel Merritt was in command. He was a trapper, lived with an Indian woman, drank a good deal at times, and was generally a noisy, blustering fellow. Most members of his party, so far as known, were of his kind.

This party won an easy victory. The members of the escort made no resistance. They were taken prisoners, and required to give up their arms, though these were later restored to them, and all were set at liberty. Each was allowed to keep a horse, and José María Alviso, who may really have been in command of the escort, was allowed to keep several others which he claimed as his private property. As they were leaving, Merritt with a great deal of bluster, told them to tell Castro that if he wanted the horses he might come and take them.

The horses were taken direct to Frémont's camp, which suggests that those who had captured them had done so on his recommendation, and there is much other evidence to the same effect. Frémont himself subsequently acknowledged that Merritt was his lieutenant, and in a letter to Benton says: "They [the escort] were surprised by a party from my camp."

The horses had come from the settlements north of the bay, where Vallejo was the richest rancher, and it was perhaps supposed that he had furnished them, though he had not done so. Still his prominence was known, and it had doubtless been learned that he had commanded the garrison at Sonoma, when one had been maintained there, and that he was still a lieutenant-colonel, though without a command. It was accordingly immediately arranged to make a

descent on his place. The party that had captured the horses was easily increased to twenty, and with Merritt still in command, marched that afternoon from Frémont's camp-which had now been removed from the Buttes to a point on Bear River nearer Sutter's place. They crossed the hills into the Napa Valley that night, and remained there two days, during which their number was further increased to thirty-two or thirty-three. Then about midnight of June 13th, they crossed to Sonoma, arriving at dawn on the morning of the 14th. There was no sentinel or soldier, or armed guard of any sort in the place to give an alarm or offer resistance. There was, in fact, no more defenseless or unwarlike hamlet on the continent than Sonoma was that Sunday morning. Colonel Vallejo's house, the most imposing in town, was immediately surrounded. Aroused from his sleep by his noisy callers, and hastily dressing himself, he opened the door and inquired what was wanted. As he spoke one language and his visitors another, explanations were not easy, but Jacob P. Leese was sent for as interpreter, the colonel's brother, Captain Salvador and Colonel Victor Prudon came, or were brought in and a general parley ensued. The two Vallejos and Prudon were given to understand that they were prisoners, but that no violence would be offered them; and Vallejo asked to know by whose authority and for what offense he had been seized, and what was expected of him. As no one was able to give a very definite answer, the leaders of the party were invited inside to make explanations. Merritt, Dr. Semple, and William Knight accepted the invitation, and following the hospitable custom of the country, the colonel provided wine and aguardiente for their entertainment, while the conference proceeded.

It was soon made to appear that the aggressors in this enterprise regarded themselves as a revolutionary party who intended to overthrow the existing order, and set up an independent government in its place. They claimed to be acting under orders, or at least by the advice of Captain Frémont, and as their prisoners were all Mexican officers, though with no forces under their command, they seemed to think some formal capitulation necessary, or at least desirable. This Vallejo was not unwilling to make, since by it he might secure protection for his family and neighbors as well as for their property. As he was a prisoner and his captors could do as they pleased with him, any written arrangement he might make would likely be to his advantage. Such government property as remained in his keeping-eight venerable cannon, the old muskets and accourrements of his soldiers, when he had soldiers—they would perhaps take anyway; his sword he offered them.

The terms of the capitulation were not arranged without difficulty. Copies in English and Spanish were to be prepared, and these could not be written until their form and terms had been agreed upon. Merritt could not write, and in fact was soon so far under the influence of the refreshments the colonel had provided, as to be capable only of disturbing those who could. Knight was present only because he understood and could speak a little Spanish. Semple seemed to think the document should contain a state-

ment of the grievances and purposes of the aggressive party, as well as the conditions of surrender, and, though he wrote industriously, succeeded in formulating nothing that was acceptable until those waiting outside became restive at the long delay. They had perhaps had no breakfast as yet, and becoming impatient to know what was going on, they decided to depose Merritt from command and elect John Grigsby to be captain in his stead. This done Grigsby was sent inside to inquire the cause of so much delay. He did not return as expected, and then Ide was sent after him. Going inside, Ide tells us, he found the negotiators in anything but a fit state for negotiation. The bottles were nearly empty, but "wines and brandies sparkled in the glasses," and those who had thus unceremoniously met had soon become merry companions; more especially the visitors. "There sat Dr. S.," Ide says, "just modifying a long string of articles of capitulation. There sat Merritt, his head fallen; there sat Knight no longer able to interpret, and there sat the new made captain as mute as the seat he sat upon." Leese tells us also that those on the outside had shared in the colonel's hospitality, and were by this time in much the same condition as their leaders.

Some time after Ide appeared on the scene, the articles of capitulation were completed and signed. They form a curious document. In the first article the Vallejos and Prudon admit that they are prisoners, and agree not to take up arms against their captors, from whom they have received a signed writing which

"guarantees our lives, families, and properties, and those of all the residents of this jurisdiction as long as we make no opposition."

In the second article the undersigned "members of the republican party in California," pledge themselves not to disturb private property, or molest the prisoners or their families; and in the third the same signatories declare that "having resolved to establish a government, of, on or upon republican principles, in connection with others of our fellow citizens," having taken some prisoners, and "having formed and published to the world no regular plan of government, feel it our duty to say that it is not our intention to take or injure any person who is not found in opposition to the cause; nor will we take or destroy the property of private individuals further than is necessary for our immediate support."

When these articles were at last got into form, signed by the three prisoners on one part, and Merritt, Semple, Kelsey and William Fallon on the other, they were reported to those outside, who were by this time in a querulous humor, and refused to approve or accept them. Some insisted that the prisoners must be taken to the Sacramento, and one wanted to proceed immediately to "divide the spoil." This last suggestion alarmed some of those whose purposes were honest, and who believed themselves to be engaged in an entirely legitimate and patriotic undertaking. Semple made a speech intended to quiet those who were most boisterous and reckless. More moderate counsels seemed likely to prevail, but no agreement could be reached as to what ought next to be done.

Ide insisted that the prisoners must be sent to Frémont, and Semple, notwithstanding the pledges he had just drawn up and signed, began to waver. Some of the party, Leese tells us, "told Vallejo they must have eighty horses within half an hour," while others insisted on searching his house and taking as much of his property as they wanted. It was not possible to control some of them, and the others felt themselves disgraced by their riotous conduct. Grigsby resigned as captain, and Ide was elected in his place.

It is well to consider here of whom this strange company was composed, and inquire how clearly they understood what they were doing, and how honest their purposes were. Few of them were really settlers or intended to be such; few were entitled to the regard which we owe, and gladly pay to pioneers. Few were inspired by any patriotic or noble purpose. Some were of that class which Frémont accurately described as "having nothing to lose"; some had no other object than plunder. Bancroft gives the names of all who are known to have been of the party, as well as of all who are only supposed to have been of it; and of the thirty-three, twenty had been in California less than eight months. Not one of these had yet secured land, or had a crop to be threatened. Most of them had met Castro and Castillero in the preceding November, and been told by them that they had come into the country in defiance of Mexican law, and although ordered to expel them, they would permit them to remain during good behavior, or until further orders. These twenty therefore, if they had reflected upon what they knew, had more reason to believe that Castro would prove their friend than an enemy; if Vallejo had befriended none of them, it was because he had had no opportunity, and had they sought information of those who had been longer in the country, they would have learned that he had been uniformly helpful to all such as they were, particularly if they were Americans. Fourteen members of the party were either hunters, trappers, or sailors who had deserted from their ships; not more than fourteen others afterward remained in the country long enough to become identified with any particular locality, and not more than ten became permanent residents.

Ide found the party as difficult to manage as his predecessors had found them. When Grigsby found that no one had any positive orders or authority from Frémont, he became alarmed and, as he said, "backed out of the scrape." Another member of the party expressed the opinion that "all would have their throats cut." Still another declared he would not stay to guard prisoners, and all were about to take to their horses, when Ide sobered them by declaring that if their enterprise were abandoned at that stage, they would never outlive the disgrace of what they had done. "In vain you will say you had honorable motives. Who will believe it? We are robbers, or we must be conquerors."

Semple, Grigsby, Merritt and Knight, now took charge of the prisoners whom they had so lately paroled and agreed to protect, and with four or five others started for Frémont's camp, while the remainder with Ide, stayed behind to complete what he calls "the neutral conquest." To the simple hearted carpenter

who was now in command, the crying needs of the hour were a proclamation, or some declaration of purposes and intentions, and a flag.

While some members of the party busied themselves in arresting the male residents of Sonoma and its immediate vicinity, and holding them in confinement until Ide could address them, through an interpreter, with assurances that he had come to liberate, not to oppress or deprive them of their property, William Todd and some others devised a flag. Doubtless most of the party had in the beginning supposed themselves to be acting under the protection of the flag of their own country, but Ide and others who had talked with Frémont knew that this was not the case that they were simply on a filibustering expedition in a foreign country, though pretending to be organizing a revolution in their own. A piece of coarse, unbleached cotton cloth five feet long and nearly a yard wide, some red flannel and red paint were procured, and Todd set to work. The design no doubt easily suggested itself. A star was a familiar symbol, emblematic of a state, and the grizzly bear was a noble animal with which even the newest arrivals in California were familiar; most members of the party knew and admired him. So a five pointed star, approximately fifteen inches from point to point, was first outlined in ink and then filled in with red paint, in the upper left hand corner, on the white cloth; and a bear standing on all fours and facing the star, was outlined and painted in a similar way. Neither the drawing nor the coloring was very artistically done, but the purpose was served. A strip of red flannel four inches wide was then sewn to the lower edge, the words CALIFORNIA REPUBLIC—with the I in republic omitted and then inserted above the C—were painted just above it, and some time during the afternoon of July 14th, the Bear flag, as it was subsequently known, was given to the breeze.

Meantime Ide, who had perhaps been elected, but more likely had assumed the title of Commander in Chief, was mentally formulating the proclamation which seemed to him so important, though he tells us he did not really begin to commit it to paper until one o'clock next morning, and completed it by four. It was a curious document, being partly a statement of grievances-which neither he nor any other member of his party, nor any American settler had so far suffered—and partly a declaration of purposes of a new government not yet founded. In its opening clause it was addressed to all citizens of Sonoma and vicinity, but thereafter "all persons in California" are mentioned. "The Commander in Chief of the forces assembled at the fortress of Sonoma," the document proceeds—the troops then consisted of some twenty-four or twenty-five men, the others having accompanied the prisoners to Frémont's camp-"gives his inviolable pledge to all persons in California not found under arms, that they shall not be disturbed in their persons, their property or their social relations one to another." His purpose, and that of his brave companions, is first to defend themselves and their families. They were, he says, "invited to the country by a promise of lands * * * and were also promised a republican government," but they had been prohibited from buying or renting lands, had not been allowed to participate in a republican governmentthey had been in the country less than eight monthsbut instead had been "oppressed by a military despotism," and threatened by a proclamation issued by an officer "of the aforesaid despotism, with extermination if they would not depart out of the country, leaving all their property, their arms and beasts of burden, and thus deprived of the means of flight or defense, we were to be driven through deserts inhabited by hostile savages to certain death." To overthrow this despotic government which had robbed the missions, appropriating their property to its own use, "which had violated good faith by its treachery in the bestowment of public lands," which had oppressed the laboring classes by ruinous exactions on imported goods, was another purpose of the brave men under his command. He invited all good citizens of California to resort to his camp without delay, and assist him in "establishing and perpetuating a republican, just and honorable government" which should secure "civil and religious liberty, detect and punish crime, and encourage industry, virtue and literature," and more to the same effect.

This paper shows how thoroughly Ide had been deluded, or had deluded himself. Nobody had invited him or others to the country; on the contrary the Mexican government had done much through its minister at Washington, and by orders to its officers in California to keep them away. Nobody had promised them lands—at least nobody who had any right to do so. Nobody had ordered them out of the country,

nor was proposing to do so, and nobody had asked them to part with "their property, their arms or their beasts of burden." As for what the Mexican government had done to despoil the missions, or oppress its own people by grievous taxation or in other ways, of course Ide and those with him could have felt no concern; for it did not in any way affect them, and reference to it could only have been made in the hope of securing support from the Californians.

Having prepared his proclamation, procured somebody to translate it into the Spanish language and make copies of it for general distribution, "the Commander in Chief" busied himself with organizing his forces, and with setting up the government which was to replace that now supposed to be overthrown, or at least tottering to its fall. A first and second lieutenant and two sergeants were chosen for the army, which now seemed to feel itself authorized to live off the country, or at least to purchase supplies with the new government's promises to pay. Then as there was as yet no legislature to enact laws, or otherwise give evidence of the government's good intentions, some "treaty stipulations" were drawn up, presumably between the government not yet founded on one side, and "whom it might concern" on the other. These declared that there was to be no division of public property—a declaration that some members of the army very stoutly opposed; commerce was to be free, with no imposts whatever; public officials were to be paid no salaries, and there was to be no involuntary taxation—except as a punishment for crime—no compulsory military service, and all Spaniards and Californians, on taking the military oath of allegiance, should be excused from bearing arms against their misguided countrymen. Then a letter to the officer commanding the *Portsmouth* in San Francisco harbor, was prepared and William Todd was sent to deliver it.*

This letter simply informed the commander of what had so far been done at Sonoma. We are assured that it asked for nothing, though mention was ingeniously made of the fact that the party had not powder enough to withstand an attack with cannon. In answer, Captain Montgomery sent Lieutenant John S. Misroon, who in company with Todd, arrived at Sonoma on June 16th. The lieutenant bore a letter from Montgomery, saying that he could not recognize the insurgent party in any way, not even furnish it a single charge of powder. Misroon also made it evident by his bearing that he did not look with favor upon what had been done; but when a copy of Ide's proclamation was shown him, and he read it aloud in the hearing of the garrison, it was taken as an evidence of his approval, and the party took new courage. Apparently with his assistance, a new proclamation was prepared, in far more rational form, and this was the one published. A week later a copy of it was posted at Monterey, and Larkin, who had previously heard of the seizure of Arce's horses, began to see the end of his hopes.

A day or two after Misroon left Sonoma, two young men named Cowie and Fowler were sent to procure powder from a rancher living near Russian River, but they never returned. Later it was found that they

^{*}Vallejo also managed to send a messenger at the same time, or a little earlier perhaps, to ask the captain's friendly interference in his behalf and that of his family.

had been killed, and report said they had been tortured and their bodies mutilated in a savage manner. The story of torture and mutilation rests wholly on the authority of a Mexican desperado named Garcia, and generally known as "Four fingered Jack," who long afterwards claimed to have killed them himself. Californians, and among them Vallejo, denied that they had been either tortured or mutilated, their version being that the two men were captured by a party of rather reckless men who were preparing to resist Ide and his party, who tied them to trees while they deliberated as to how they should dispose of them, and that Garcia stole away and stabbed them with his dagger in order to prevent their release.

During the next three or four days, William Todd and two other members of the Bear party were taken prisoners, and Lieutenant Ford, who had gone with a few men after the powder that Cowie and Fowler had been sent for, had a skirmish with an armed party, in which they wounded one man, and took another prisoner. It began to be only too evident that the Californians were not all disposed to submit to the "neutral conquest." American settlers in the neighborhood, becoming alarmed for the safety of their families, came to Sonoma for refuge, and in a few days Ide's army was increased to something like a hundred men.

These reinforcements came none too soon, for Castro on learning of the seizure of Arce's horses and the events that followed it, had put aside his quarrel with Pico, and turned his whole attention to the north. He first sent to Captain Montgomery to inquire what

it all meant, but that officer could only assure him that neither he nor his government was responsible for it. Larkin had earlier expressed surprise at the capture of Arce's horses, and offered to do what he could to help recover them. Fifty or sixty men under Joaquin de la Torre were sent across the bay from Point San Pablo to San Quentin on the 23d, and marched to San Rafael. Continuing his march during the night with part of this force, he was joined by the party which had captured Cowie and Fowler, and next morning was at Olompali, half way between San Rafael and Petaluma. Here on the morning of the 24th they were surprised by the sudden appearance of fifteen members of the Bear army under Lieutenant Ford, who, while the Californians were at breakfast, made a dash after some horses belonging to a nearby rancho. Neither party was aware that the other was in the neighborhood, and on perceiving the Californians, the Americans dismounted and took refuge behind trees. The Californians charged them, but retreated at the first fire, losing one man killed, and another wounded; then as they fell back, they fired a few shots at long range, but the fighting was soon over and the victorious Americans returned to Sonoma. So far as the Bear flag party was to manage affairs, the war was over.

Let the reader here consider what the Bear flag party accomplished, as well as what might have happened had the beginning of the war with Mexico been delayed a few weeks or months, as it might if a single enterprising Mexican officer had been less enterprising than he was.

Thirty-three persons who were almost strangers in the country, and as yet had no homes or fixed property in it, had descended by stealth upon a sleeping hamlet, invaded the home of its most influential resident, who was not their enemy and had always been the friend of those of their kind; had found him without means of defense, and taken him prisoner; had entered into a written agreement for his parole, which they soon after ignored, and sent him and other members of his family to a distant place where they were held in confinement for two months. Nor was this all, for those that remained helped themselves liberally to his property under the pretense that they were an army representing a revolutionary government—and left what they did not themselves use or take away, to be wasted by the owner's Indian servants, or preyed upon by any one who cared to take it. Writing to Larkin three months later,* Vallejo says: "The political change has cost a great deal to my person and mind and my property. I have lost more than one thousand live horned cattle, with six hundred tame horses, and many other things of value which were taken from my house here and at Petaluma. My wheat crops are entirely lost, for the cattle eat them up in the field, and I assure you that two hundred fanegast of sowing, in good condition as mine was, is a considerable loss. All is lost and the only hope of making it up, is to work again."

^{*}Vallejo to Larkin, September 15,1846—Larkin Documents, Bancroft Collection. † A fanega was about one hundred pounds, and as the yield of wheat in California at that time, as testified by many writers, was from thirty five to one hundred for one, according to locality, soil, and care in cultivation, we may compute the colonel's loss at not less than 9,600 bushels, or at the larger yield, more than 33,000 bushels.

And this was the man who had long been showing so many kindnesses to Americans as to incur the criticism of his countrymen; who but for his arrest and long imprisonment at Sutter's fort, would have been a most potent factor in procuring peaceful submission to the occupation of his country by the United States, and who after his release, so far forgot the indignities he had suffered as to render service for which Captain Montgomery gave him hearty thanks.*

And if war, with the consequent occupation of the country by the United States had not come as it did, what would have been the position of these "neutral revolutionists"? It is plain that Montgomery could not have helped them; he had already so indicated, and his instructions, or those to his chief, forbade it. It is equally plain that Frémont, although he had suggested and advised their operations, did not intend to interfere unless they succeeded in bringing about conditions that suited him. He had not permitted any of his men to take part in anything so far done, unless possibly in the capture of Arce's horses. The plan he had proposed to Ide, was to end in leaving the country. When the two Vallejos and Prudon were brought to him as prisoners, he refused to receive them, or recognize their paroles, though he ordered the arrest of Leese, and that all should be taken to Sutter's

^{*}Montgomery to Vallejo September 25, 1846—Hearty thanks for the services you have rendered, as well as for the prompt and sincere manner in which you were pleased to render your assistance to the United States government in the recent emergency, and to your associates whose ready obedience to your call, has done much toward allaying national prejudice and unfriendly suspicion among the various classes comprising the society of California; and hastening arrangements, for the establishment of peace, order and good government in the country, John B. Montgomery. Vallejo Documents, Vol. XII, p. 242. Bancroft library.

fort for safe-keeping. Just before Arce's horses were seized, he had sent Gillespie to San Francisco with a letter to Captain Montgomery, asking for supplies, and in it he was careful to mention that he was preparing to return east. While Gillespie was at Yerba Buena, on June 7th, he wrote to Larkin that "Captain Frémont's party, being very much in want of supplies before starting home," he had been sent to procure them; he also wrote a letter to Montgomery in which he was careful to say that Frémont was about to go east. So a record was made from which it would appear, in case war did not come and disaster should follow, that he had turned aside while in pursuit of his peaceful purposes, to aid his countrymen who had innocently got themselves into trouble. His skirts would be clear; but how about theirs?

Their position even at best would have been a difficult one. They might perhaps have maintained themselves for a considerable time in the Sacramento Valley, separated as it was by more than a hundred miles from Castro's camp, and by something less from the nearest Mexican settlements. Their natural defenses were formidable and their enemy was not very enterprising; but they would have been subject to constant annoyance by parties like that which had killed Cowie and Fowler, and every American whose home was south of the bay, would have found all his old neighbors his enemies. With Frémont's helpgiven, it is true, before it was known that war had begun—they might have made aggressive war south of the bay, but how far could the officers of the Portsmouth, lying at Sausalito, and the Cyane at Monterey, have permitted this?

It has been for many years supposed, perhaps believed by many people elsewhere, as well as by many Californians themselves, that the Bear flag episode had much to do with the acquisition of the state from Mexico, but nothing can well be further from the fact. If anything, it made its acquisition more difficult than need be. Had Gillespie never sought Frémont's camp at Klamath Lake, but left him to pursue his peaceful way to the states by the route over which he came in 1843, the American settlers and the trappers, hunters and other wandering people who had preceded or followed them across the plains and mountains, would have remained at peace in the Sacramento Valley undisturbed by stories of Indian uprisings, burning wheat fields and threatening proclamations, in which there was no grain of truth. Sloat and Montgomery would have taken peaceful possession of Monterey and Yerba Buena as they did; Pico and Castro and their fellow factionists, weary as they were beginning to be of their quarrels, would have found in the way Larkin was successfully opening for them, an easy solution of their difficulties; the native Californians would have gladly accepted the change from the misrule that had long hindered their progress to a settled and benignant government which was offered them; Vallejo and other of his compatriots would have escaped the ruin of their fortunes; Cowie and Fowler would not have been butchered, a harmless old man and two boys would not have been shot to death at San Rafael; the brave men who later fell at San Pascual might have lived to green old age, or paid their debt to nature in some more glorious

contest; and the acquisition of California in 1846 should never have cost one drop of blood, for never were people anywhere more readily inclined to change their allegiance.



CHAPTER II. THE CHANGE OF FLAG



T is difficult to determine just what course of action Frémont had planned to pursue, before the prisoners from Sonoma were presented to him, and he was told of what had taken place there. If he had hoped, as seems probable, to bring about a condition of things that would justify him in claiming that California had "asserted and maintained her independence," and so, even in a remote way justify him as an officer of the United States, in rendering "her all the kind offices in our power as a sister Republic," as Buchanan had told Larkin we would do, he must have been grievously disappointed. Nor could his disappointment have been lessened when he received information as to what the settlers had done after their prisoners were sent away. The compact with the Vallejos and Prudon, which some of the insurgents had signed and then immediately violated; Ide's proclamation with its strange jumble of grievances of the settlers which were not real, and of the missionaries with which he had no concern, "treaties," to which nobody had assented but himself, and land laws made by nobody who had lands to control, would never be received anywhere as evidence that the "revolution" had anything genuine in or about it. His position was embarrassing and particularly so, because of his own equivocal policy. He had circulated false rumors that time was doing nothing to confirm, and would soon show to have been false; he had seized Arce's horses without provocation or reason; had encouraged Ide and others to make an inexcusable attack upon the persons and property of unoffending Californians, and at the same time had told them that he would not help them except

in a certain contingency which had not yet occurred; he had secured supplies from Montgomery on representations made both by himself and his messenger (Gillespie), that he was preparing to return east, and had been informed, incidentally, by that officer, that he was pursuing a policy of peace and conciliation similar to that outlined in the letter to Larkin. Montgomery would be likely to have later advices than any he had received; if there had been any change of policy he would know it before it could be known in the interior; with his armed ship and its marines he could give the settlers far more effective assistance or protection, should there be occasion, than could be furnished by the unwarlike escort of a surveying party, and the government would look to the ship and its men and munitions to furnish them in case of need, and not to the surveyors.

Under the circumstances, as they now stood, it is not surprising that Frémont, naturally irresolute as he was, should have hesitated for a full week before determining to do anything. Meanwhile, events helped him but little to reach a decision. Sutter had protested against the seizure of Arce's horses, and he, perhaps, received the Sonoma prisoners not very willingly, for Kern was sent to the fort to take charge of them. As the days went by, various friends of the prisoners came from Sonoma and elsewhere to visit them, and were themselves locked up.* They brought no information of value, but on June 20th, two settlers, Hensley and Reading, came in from a trip down the river, with

^{*}These were José Noriega, Julio Carrillo and Vicente Peralta. Noriega was from San José, Carrillo from Sonoma, and Peralta from San Antonio Rancho.

news that Castro was preparing at Santa Clara for a hostile movement. Whether he was to move against Frémont at New Helvetia or the Bear party at Sonoma they do not appear to have learned, but later, another messenger brought information that Sonoma would be first attacked.

This news was probably not unwelcome to Frémont. He had very evidently found it quite difficult to explain to his men, to others and to himself, why he had withdrawn from Gavilan Peak so precipitously after sending his dispatch of defiance to Larkin. Gillespie had brought the unwelcome information that officers of the navy had commented very unfavorably on it, though he can have had but little opportunity to learn what their views were, after any of them had heard of what had happened. That Castro was much in his mind after returning to the Sacramento, there can be no doubt. The reports sent out to alarm the settlers, all stated that he was approaching with an armed force, and inciting the Indians to burn their fields. One part of the plan of action proposed to Ide was to encourage "depredations against General Castro, the usurper," and Arce's horses had been seized because they were being taken to him. If Castro would take the offensive, it would give plausible excuse for activity on his own part, and make it much easier to determine what course he would pursue.

But Castro was provokingly slow. The condition of the public mind did not encourage him to make active resistance, or to hope that if made it would be successful. Few were alarmed by the news of a foreign uprising in the north; and fewer still cared to make resistance. On learning what had taken place at Sonoma, he issued two proclamations, dated June 17th, one announcing the arrest of the Vallejos and Prudon, and appealing to all Californians to rally to the defense of their country, "en masse, irresistible and just," and the other assuring all foreigners of protection so long as they took no part in revolutionary movements.

The response to the first was not very enthusiastic, not more than a hundred men at most resorting to his camp to help defend or perpetuate the system under which they had been living. These with the seventy or eighty men he already had at Santa Clara, were organized in three companies, one of which was sent across the bay, under Joaquin de la Torre and was defeated by Ford at Olompali on June 24th.

Meanwhile, news of the Bear uprising had been hurried southward to the governor at Los Angeles, who issued a far more fiery appeal than Castro's, and also summoned the members of the assembly to a special session at Santa Barbara. But only a mere handful of patriots responded to his call for soldiers, and the members of the assembly remained at their homes, claiming there was as yet insufficient information to guide their deliberations. The tone of his proclamation was criticized as giving offense to those, who, although of foreign blood, had long been loyal citizens and good neighbors. Some attempted to convince him that the Bears were really acting in his interest against Castro, and many expressed unwillingness to enlist to repel foreign invasion, fearing they might in the end be called upon to act only against their own countrymen. Some also reminded him of the unwisdom of going

north to fight foreign invaders, and at the same time leaving their homes to the protection of foreigners, who, although naturalized, might in the end prove to be enemies.

Under such conditions, the governor pursued his efforts to raise a fighting force with difficulty, but finally got together about a hundred men, who marched north under his brother, Andrés Pico, early in July. Two days later, the governor himself followed as far as Mission Santa Inés, where he was met by Prefect Manuel Castro, an emissary from the general, sent with assurances of an earnest desire for reconciliation, in order that the north and south might unite against a common enemy.

While the governor and comandante were thus exerting themselves to raise some means of defense, Frémont had come to a conclusion as to the course he would pursue. On the 23d, the day that de la Torre crossed from Point San Pablo to San Pedro, but while still knowing nothing of that movement, he left the American River—to which his camp had by this time been removed—for Sonoma, having concluded, apparently, that Castro would be far more likely to march to the relief of that point, than to attack a stronger force at a much greater distance on the Sacramento. He had also learned, no doubt, of the killing of Cowie and Fowler, and that armed parties were appearing in the neighborhood of Sonoma, who might menace the lives of settlers who had so far taken no part in the uprising.

He had with him about ninety men—some thirty settlers, trappers and others, among whom were some members of a party just arrived from Oregon—having

joined him on the Sacramento. With these he arrived at the camp of the Bear party on the 25th, in time to learn of the defeat of de la Torre at Olompali on the day previous. Ide tells us that Frémont gave him no very hearty greeting, inquired sarcastically who had written his proclamation for him, and seemed much displeased because the indignity offered him by Castro at Gavilan Peak had not been mentioned among the grievances complained of. Later he became a little more courteous, though still mysterious. Next day with about a hundred and thirty men—his own party reinforced by some of Ford's men and others of the Bear party—he marched to San Rafael, where it was supposed he might find de la Torre, and possibly Castro. But no enemy was found there, nor was there any indication during the next two days of Castro's coming. On Sunday morning, the 28th, however, four men were seen crossing the bay to Point San Pablo. Carson and some others were sent to intercept them, as it was suspected they might be bearers of dispatches. As they were leaving, Carson is said to have asked Frémont if he should take them prisoners, and Frémont replied, with a wave of his hand, "I have no room for prisoners."* Three of the four had landed by the time Carson and his party reached them, and started toward the mission, apparently unconscious of danger, while the fourth had turned back with the boat to recross the bay. The three were shot, apparently without warning, and without offering resistance. They proved to be a respectable old man, named Berrvesa,

^{*}This is the account given by Jasper O'Farrell in a letter first published during the presidential campaign of 1856 when Frémont was a candidate for president, and never denied apparently.

KIT CARSON

Born in Madison county, Kentucky, December 24, 1809; died at Fort Lyon, Colorado, May 23, 1868. Trapper, guide, and soldier, who came to California first with Ewing Young in 1830. Came again in 1844 with Frémont as guide and hunter, and again in 1845. In 1846 he was with Frémont at San Rafael and at that commander's orders shot Berreyesa and the De Haro brothers on June 28. In October, 1846, he met General Kearny in New Mexico and guided him to California, taking part in the fight at San Pascual and afterwards served in the Los Angeles campaign.

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who owned a ranch near Santa Clara, and twin brothers named De Haro, about twenty years of age, sons of a prominent resident of San Francisco. Berryesa was on his way to look after the welfare of his son, who was alcalde at Sonoma, while the De Haro boys may or may not have been carrying a dispatch from Castro to de la Torre. If so, their mission was legitimate and the killing of them can be justified by no rule of civilized warfare.

During the two or three days that Frémont was at San Rafael, he had scouting parties scouring the country round about for de la Torre and his party, but curiously enough did not find him, although many members of his party were experienced plainsmen and the Californians could not have moved without leaving something to indicate the direction they had taken. Of his own sixty-two men, there were probably fifty who could easily have discovered his whereabouts if set to do it.

Instead they only succeeded in capturing an Indian, who bore a letter from de la Torre indicating that he intended to attack Sonoma early next morning, and that he expected part or all of Castro's force to arrive in time to join in the attack. This letter was subsequently found to have been written simply to be captured, and possibly, also, with the hope of leading Frémont into a trap in which he would be fired upon by the guard he had left at Sonoma, a result it very nearly accomplished. A similar letter had been sent to be intercepted, as it was, by the Sonoma party, and while Frémont was hurrying to their relief, they shotted their cannon and stationed themselves with loaded rifles in

advantageous positions, to surprise an approaching enemy. In the gray dawn of the morning, before moving objects could be seen distinctly, the tramp of approaching horsemen was heard, and the garrison made ready to receive them. The gunners lighted their matches, while the riflemen—if we may believe Ide's story—stood with one loaded gun in hand and another within easy reach, prepared to deliver a double volley, when some one fortunately discovered that their supposed assailants were friends and not enemies, and not a shot was fired.

It was now only too apparent that both parties had been duped by the captured letters, and that de la Torre was probably making good use of the time while his enemy was absent from San Rafael, to recross the bay. Such, in fact, was the case; and by the time Frémont returned, he had safely reached the other side with his whole command.

Having no longer any enemy to confront him, Frémont now embarked in an enterprise worthy of those who visit battle fields only to cut off the legs of the slain. Securing a launch with its oarsmen from the master of a trading ship then at anchor in Richardson's Bay, he crossed to Fort Point with about twenty men on the morning of July 1st, and spiked the ten neglected cannon that had long been rusting in the sun and rain, in what was left of the old Castillo de San Joaquin. This valiant feat having been performed, Frémont and the others returned to Sonoma. There July 4th was duly celebrated, and on the 5th, a general meeting, attended both by Frémont's men and members of the Bear party, was held, the purpose of which appears to have

JOHN DRAKE SLOAT

Commodore United States Navy and governor of California.

Born at Sloatbury, New York, July 26, 1781; died at New Brighton, New York, November 28, 1867; came to California in command of the Pacific squadron, arriving at Monterey, July 2, 1846, in the Savannah (flagship), the Cyane and Levant having preceded him, and the Portsmouth was at San Francisco. He landed 250 men July 7th, raised the American flag and issued a proclamation assuming command of California.

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been to pledge all to submit themselves implicitly to Frémont's direction. This was accomplished readily enough by a little parliamentary maneuvering, directed mainly by Gillespie, who remained with a few others in a nearby room, between which and the main assembly room, a guard was posted. The object sought having been accomplished, Frémont assumed command, and leaving a small guard at Sonoma, marched the remainder of the party back to his camp on the American River, where it arrived on the 10th.

Here news was received that war between the United States and Mexico had actually begun, and Commodore Sloat had taken possession of Monterey.

Commodore John D. Sloat, commanding the Pacific squadron, had been instructed as early as June, 1845, to take immediate possession of San Francicso Bay, and blockade or occupy such other ports along the coast as his force would permit, as soon as he should "ascertain with certainty that Mexico has declared war." Again on October 17th, the very same day on which Buchanan wrote his confidential letter to Larkin, Secretary Bancroft wrote, reminding him of the importance of carrying out the instructions already given, "in the event of actual hostilities." Other instructions much to the same effect, and all reminding him that, whatever was done, he should "preserve, if possible, the most friendly relations with the inhabitants," were sent later, though none of these, perhaps, were received until he had determined to act. This he did only after much hesitation, and long after he had received reliable information, that a less cautious man would have deemed sufficient, and was, in fact, sufficient, had he

read his instructions closely. But he was then in his sixty-sixth year, and had he been younger, would have been justified in not wishing to repeat the exploit of Commodore Jones at Monterey, less than four years earlier.

The squadron under his command consisted of the flagship Savannah, 54 guns; the sloops-of-war Warren, Portsmouth, Cyane, and Levant, 24 guns each; the schooner Shark, 12 guns; and the transport Erie. The rendezvous had been at Mazatlan, where the British fleet in the Pacific also made its headquarters. Very friendly relations between the officers of both fleets were maintained, though both were watchful, the Americans suspecting that the Britons, like themselves, might have some instructions with regard to California; and both knew that the controversy over the Oregon boundary might at any time call them to the north.* Sloat, however, kept his attention keenly fixed on California. Late in March, the Mexican military authorities at Mazatlan were startled by a report that war had begun, but it proved to be unfounded. In April came the news of Frémont's exploit at Gavilan Peak, and the Portsmouth was sent to San Francisco as already related; and by the end of the month, the Cvane, which had taken Gillespie to Monterey by way of Honolulu, returned with information that all was quiet again in California. Early in May, Fleet Surgeon Wood, who had been relieved and was returning home across Mexico in company with Consul Parrott of Mazatlan, learned at Guadalajara that a battle had

^{*}Two ships of the British squadron—the Fisgard and Cormorant were then stationed in Puget Sound, while one—the Modeste had been for two years in the Columbia near Fort Vancouver, the main station of the Hudson's Bay Company.

SAMUEL F. DU PONT

Born at Bergen Point, N. J., September 27, 1803; died at Philadelphia, July 23, 1863; rear-admiral, United States Navy; came to California as captain in command of flagship *Congress*, Commodore Stockton, July 15, 1846, from Hampton Roads via Cape Horn and Honolulu.

Dupont street in San Francisco was named for him.

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taken place on the Rio Grande, and managed to send the news to Sloat. This should have been sufficient to warrant immediate action on his part, as his latest instructions—those of October 17th—directed him to proceed promptly to seize or blockade certain ports "in the event of actual hostilities." Had he sailed at once on receipt of this news, and acted promptly on his arrival, he would have balked all of Frémont's schemes, averted the trouble at Sonoma, the Bear flag would never have been heard of, and the plans of Mr. Polk and his cabinet for a peaceful conquest of California, would have met with no opposition; the encouragement Larkin had received in the work he had begun, the attitude of the Californians toward Montgomery after his arrival, the refusal of all but a few to respond to the appeals of Castro and Pico, even after Sonoma had been surprised, and its most prominent residents seized, as well as the readiness with which all submitted at first to the American occupation, makes this certain.

But Sloat was, unfortunately, overcautious. Instead of sailing at once with his whole fleet, on receipt of authentic information that hostilities had begun, he sent away only one of his smallest ships, the Cyane, and that without instructions. On May 31st he learned of the battles of Palo Alto and Resaca de la Palma, and still he hesitated; he somehow felt that he must have authentic news of a declaration of war, before venturing to act, and so he did nothing but send the Levant, another small ship, to join the Cyane. June 5th came news of the capture of Matamoras, followed on the 7th by information that Vera Cruz had

been blockaded, and on the 8th all sail was made for the north. Monterey was reached on July 1st or 2d, and here further delay occurred. Larkin had no later news than had been received by the fleet before sailing, and it was not until the fifth or sixth day after his arrival, and news had been received of Frémont's actions in the north, that the commodore resolved, as he said, "rather to be sacrificed for doing too much than too little." Accordingly, on the morning of July 7th, a demand was made for the surrender of the place, but as there was no one in command, and no arms or munitions of war to be surrendered, those who received it, forwarded it to Castro at San Juan. On learning of this, the boats were manned and about two hundred and fifty men sent on shore, under command of Captain Mervine of the Cyane, to raise the flag over the custom house. There was no Mexican flag to be hauled down, and had been none for some months, and possession was taken without resistance. The flag was run up and saluted, a sufficient force to defend it, under Captain Mervine, was stationed on shore, the band from the flagship played a few patriotic airs for the entertainment of the people, who, so far as might be judged from their conduct, accepted the music and the change of flag with equal satisfaction.

A proclamation had been prepared in advance and was now issued. It explained that possession of California had been taken as a war measure, and that it would be held by the United States, of which it would henceforth be a part. Its people would enjoy a permanent government, under which life and property would be secure, religion would be respected, and all would

MONTEREY IN 1846

Reproduced from J. W. Revere's "A Tour of Duty" (N. Y. 1849).







have equal rights under equal laws. It, in fact, conformed strictly to the instructions given to commanders of both the army and navy, to Frémont and others—the only ones ever issued to anybody—"to preserve the most friendly relations with the inhabitants," and "encourage them to adopt a course of neutrality." Sloat also wrote to Pico urging him to "feel assured that although I come in arms with a powerful force, I come as the best friend of California," and inviting him to come to Monterey that he might further assure him of that fact.

On the day before raising the flag, Sloat had sent notice to Montgomery of what he had determined to do, and directing him to raise the flag at Yerba Buena. This order was not received until the 8th, and on the morning of the 9th, the captain landed at the foot of Clay Street with a party of seventy marines, marched thence to Kearny and along that street to the Plaza, where the colors were displayed from a pole in front of the custom house. As at Monterey, no opposition or ill feeling was shown by anyone. Flags were also sent to Sonoma, to Sutter's fort, and to Stephen Smith's mills at Bodega, where they were displayed within a few days, and generally welcomed. This was particularly the case at Sonoma, the residents of which saw it replace the Bear flag with much satisfaction.

Within a few days, reports from the interior began to arrive, indicating that there was little opposition anywhere to the change. The few recruits that Castro had been able to rally at Santa Clara to oppose Frémont, began to desert him, and he retired, first to San Juan and then to San Luis Obispo, where late in the month,

what remained of his force was united with that of Pico—the governor and comandante having become so far reconciled as to act together. A small company of volunteers was quickly formed to defend the flag which Montgomery had raised at Yerba Buena, and companies which Charles M. Weber had been quietly forming at San José, and Thomas Fallon* at Santa Cruz, to aid the Bears, were now recruited more rapidly and more openly, though Weber was taken prisoner by Castro as he retired southward. Sloat sent a flag to these recruits and it was unfurled at San José, on the 16th. Subprefect Guerrero surrendered his office and its records to Montgomery, and Comandante Sanchez showed the same officer where two old cannon were buried. At Los Angeles almost no attention was paid to Pico's final appeal for aid in defending the country against a foreign invader, the native portion of its population regarding the proposed change with as little apprehension as the American born.

Larkin closely watched these manifestations of the disposition of the Californians toward the new order of things with satisfaction, as all tended to confirm the hopes he had expressed in recent reports to Buchanan. He had done what he could to dissuade Sloat from raising the flag, believing the Californians would soon seek the protection of the United States when convinced that war had begun—possibly had delayed it for a few

^{*}Charles M. Weber came to California in 1841 with the Bidwell party, and later settled at San José where he actively engaged in business. He helped the Californians in their campaign against Micheltorena, and was afterwards captain of a militia company which was relied upon for defense against Indians and for the general protection of the community. Thomas Fallon was a Canadian who came in 1844, possibly with Frémont. He sympathized with the Bear flag movement, but took no actual part in it.

CUSTOM HOUSE AT SAN FRANCISCO IN 1846
Reproduced from the "Annals of San Francisco."

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days; and now that so little ill will was manifested, in spite of the provocation that Frémont had so inadvisedly given them, he had abundant reason for believing that his efforts would have succeeded if he had been left to continue them.

Supposing that Frémont had been acting under more recent and positive instructions than he had himself received, Sloat invited him to join him at Monterey, as early as possible. With a command now numbering about one hundred and sixty men and two field pieces, Frémont started south on the 12th, and, marching by way of San Juan, which Castro had so recently abandoned, arrived on the 19th at Monterey. His meeting with Sloat was not an agreeable one. The commodore, none too confident as yet that he had not exceeded his authority in taking possession of Monterey, was surprised to learn that Frémont had not only received no instructions or information later than his own, but had practically done what he had been forbidden to do. He refused to give the slightest approval or recognition of what had been done, even by utilizing Frémont's battalion for guard or other duty; and left the captain in what must have indeed proved a very embarrassing situation had the commodore remained in command.

This he speedily determined not to do. On the 15th Commodore Robert F. Stockton arrived in the Congress, having sailed from Norfolk in the preceding October, and on the 23d Sloat transferred the command to him. Stockton was a much younger man than Sloat, with far less discretion, and much inclined, like Frémont, to celebrate victories before he had won them. On assuming command, he issued a proclamation in which he

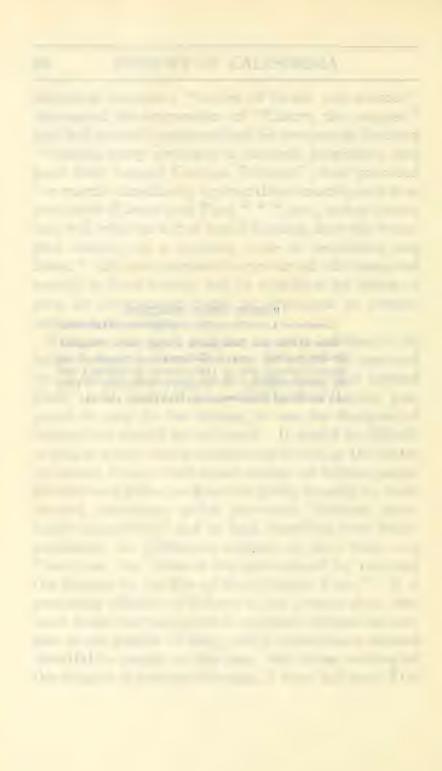
described imaginary "scenes of blood and murder," denounced the oppressions of "Castro, the usurper," who had not only impoverished his own people, but had "violated every principle of national hospitality and good faith toward Captain Frémont"; and promised "to march immediately against these boasting and abusive chiefs [Castro and Pico] * * * who, unless driven out, will, with the aid of hostile Indians, keep this beautiful country in a constant state of revolution and blood." He also promised to protect all who remained quietly at their homes, and to withdraw his forces as soon as government could be organized to protect persons and property.

Frémont also took occasion to write a letter to his father-in-law, Senator Benton, in which he assumed credit for all that had so far been done that seemed likely to be regarded as creditable, and cleverly prepared the way for his defense, in case his disregard of instructions should be criticized. It would be difficult to find as many misrepresentations of fact as this letter contained, in any other equal number of written pages. He had been halted at Klamath Lake, he said, by snow covered mountains which presented "barriers absolutely impassable," and he had, therefore, been easily persuaded, on Gillespie's arrival, to turn back and "carry out the views of the government by reaching the frontier on the line of the Colorado River." It is somewhat difficult to believe at the present day, that snow made the mountains in southern Oregon impassable in the middle of May; and it should have seemed doubtful to people in the east, who knew nothing of the climate of southern Oregon, if they had read Fré-

ROBERT FIELD STOCKTON

Commodore United States Navy and governor of California.

Born at Princeton, New Jersey, in 1795; died at Princeton, October 7, 1866; came to California in command of the *Congress*, arriving July 15, 1846; governor of California until the arrival of Kearny. He resigned from the navy in 1850, and was United States senator for New Jersey, 1851-53.







mont's own report only recently printed, showing that he had passed through that region without difficulty in December, a far more inclement season, only three years earlier. On reaching the Sacramento, he learned that Castro was "in the department of Sonoma," "commanded by General Vallejo"; that he was threatening to proceed against the foreigners in the country, for whose expulsion an order had now been issued by the governor; that he soon after "assembled a force at Mission Santa Clara, a strong place"; reminded the senator "how grossly he had been outraged and insulted" by this same Castro in the preceding March, when one of "the main objects proposed by this expedition had been entirely defeated"; told how he had applied to Montgomery for supplies to enable him to return east, and then on receiving them, because his animals were unfit to travel, he had "determined to take such active and anticipatory measures as should seem to me most expedient to protect my party and justify my own character." Although well aware of the grave responsibility he thus assumed, he determined to assume it and its consequences. Castro was attempting to incite the Indians to burn the settlers' crops (of which there never was even the slightest evidence), and otherwise proceed immediately against them (which is absolutely untrue). On the 6th of June, he decided on the course he would pursue. Arce's horses were captured and "at daybreak on the 15th, the military fort of Sonoma was taken by surprise, with nine brass pieces of artillery and 250 stand of muskets, with other arms, and a quantity of ammunition." (It will be noted that while the captain does

not say he made this capture himself, he leaves it to be inferred that he did, and he asserts that the place was "a military fort," which it was not.)

After telling how careful he had been to advise Montgomery (after he had received the supplies asked for) of what he was now doing, so that he need not further compromise himself by aiding him, unless he was willing to do so, he tells of his own march to Sonoma, and how "in a few days de la Torre was driven from the country," having barely succeeded in effecting his escape across the straits (his clever ruse of the letters written to be intercepted, is of course not mentioned); also of "the guns, six large and handsome pieces, spiked at the fort at the south side of the entrance to the bay, and communication with the opposite side entirely broken off, the boats and launches being either destroyed or in our possession." The killing of Cowie and Fowler, "with an exaggeration of cruelty which no Indian would be capable of," is described, but the murder of Berryesa and the two Haro boys is barely mentioned. "Three of Castro's party having landed on the Sonoma side, in advance," he says, "were killed on the beach; and beyond this there was no loss on either side"—from all of which it might appear that there had been a battle, though there was none.

Subsequent happenings are alluded to more briefly, as the senator is assured the letter is written in great haste. At Sonoma on the 5th, "California was declared independent, the country put under martial law.

* * The whole was placed under my direction." No mention is made of the Bears or of Ide and his peculiar

statesmanship. The flag was raised at Sonoma "by my order," he says, though Sloat had furnished the flag and sent Lieutenant Revere to raise it; Frémont was not present and knew nothing about it. He goes on to say that Castro meantime had evacuated Santa Clara, and retreated to "St. John, a fortified post having eight pieces of artillery." (This was the old mission of San Juan Bautista, and it never was fortified.) He was about to start in pursuit, he says (although Castro was at the time at Santa Barbara, three hundred miles away), when news came of Sloat's action at Monterey, and the order was received to join him there. Mention is made of the transfer of command to Stockton, "who approves entirely of the course pursued by me and Mr. Gillespie," and of the plan already laid for future action.

No mention was made in this letter of a supposed design on the part of Great Britain to seize the country, as an urgent cause of Frémont's hasty action; nor is anything said of the defeat of the scheme to cede a large portion of the country to an Irish priest named McNamara, to be colonized by people he was to bring over from Ireland. These were not thought of until later, when there was more need to defend Frémont's conduct.

As has been shown by the repeated declarations of the foreign office, Great Britain had no designs upon California. She not only made no effort to influence its destiny, but frequently refused to make any. The flagship Collingwood, of the Pacific squadron, with Admiral Seymour on board, arrived at Monterey on July 16th, more than two weeks after Sloat arrived there, and the Juno sailed into San Francisco Bay on

the morning that Montgomery raised the flag at Yerba Buena, after having been two months in the harbor; but their coming was purely incidental. They came merely to observe what was going on, and for no other purpose. McNamara had for some time been in Mexico, where his plans had not prospered as he wished, and he had come to California, arriving there about the time the Bears took possession of Sonoma. Here he succeeded no better, although in the desperate state in which affairs then were, both governor and assembly were willing to further his enterprise.*

Afterward, when it became necessary to defend Frémont's course in the court-martial, and in the investigation of the claims for about \$700,000 presented by various persons for supplies furnished or services rendered him, it began to be asserted that he had saved California from the grasp of Great Britain. At the court-martial Frémont himself testified that the private letters Gillespie brought, informed him in a guarded way that, "I was required by the government to find out any foreign schemes in relation to California and counteract them." In the claims inquiry he said he was to find out and counteract "the designs of the British government upon that country." This he reiterated in an article written for The Century many years later, in twhich he says, "Benton clearly"—in his testimony he had said it was in "an enigmatical

^{*}The assembly, early in July, voted to grant him 3,000 leagues in the San Joaquin Valley. This action, Pico appears to have approved about July 13th or 14th at Santa Barbara, but as this was after Sloat had taken possession of the country, the grant was dated back to July 4th. Subsequently McNamara sought to get it approved in Mexico, but without success. As the governor and assembly could grant no more than eleven leagues to one person, or for one purpose, their action was void from the beginning.

†Century, Vol. XIX, p. 917.

and obscure way"—"made me know that I was required by the government to find out any foreign schemes in relation to California, and to counteract them so far as was in my power. His letter made me know distinctly, that at last the time had come when England must not get a foothold; that we must be first. I was to act, discreetly but positively."

The letter written by Frémont from Monterey, together with others previously written detailing his experience at Gavilan Peak, was subsequently embodied in a letter from Benton to the president, in which the famous senator eloquently told the story of his son-in-law's exploits; and these together with the uncontroverted statements of Frémont and Gillespie at the court-martial and in the claims investigation, were the material from which the history of this period in California was written for nearly forty years—or until the Larkin letter, the instructions to Sloat, Stockton and Kearny, and all the other official correspondence, both American and foreign, was brought to light.

Having temporarily composed their quarrel, Pico and Castro continued to appeal to their people to rally to the defense of their homes and their country. The assembly also proclaimed it to be the sacred duty of all to take up arms, and authorized the governor and comandante to demand such supplies as they might deem necessary; but few came to their support. The well-to-do Californians, whether native born or naturalized, received news of the change of flag with composure, and generally only those who had little else to do resorted to their camps. So discouraging was the

outlook, even after his own force had been recruited by all the men Pico was able to send him, that Castro wrote: "I can now count upon only 100 men, badly armed, and still more poorly equipped with supplies, and discontented on account of their sufferings; I even fear, with good reason, that these will not fight when the occasion arises."*

This force, estimated by Stockton at from seven hundred to one thousand men, the commodore, who had been left by Sloat in command of the forces on land as well as on sea, now resolved to attack. He accepted Frémont's battalion, which Sloat had refused to recognize, appointed Frémont major and Gillespie captain, and on July 26th embarked them on the Cyane for San Diego, whence they were to march northward to Los Angeles, and with the Congress sailed for San Pedro on August 1st, expecting Frémont to meet him there. The junction was not made as planned, but on the 13th when Frémont came up, the two forces marched into and took possession of the city without resistance. Castro and Pico had fled, the one to Sonora and the other to Lower California, but without taking with them any considerable number of men. Scouting parties were sent out in various directions in the next four days, in the hope of overtaking them, but they were not found. Andrés Pico and José María Flores, their principal lieutenants, were captured and released on parole; all others submitted as quietly as people in the north had done.

Stockton issued another proclamation announcing that the country was entirely free from Mexican domi-

^{*}Letter to Pico, Aug. 9, 1844. Moreno Doc. MS., 12-13 Bancroft Collection.

nation; that it belonged to the United States, and as soon as practicable, a territorial government, similar to that in the other United States territories, would be organized in it. Until then, a governor, who should hold office for four years unless sooner removed by the president, would be appointed, also a secretary, who should hold his office in like manner; the legislative authority should be vested in the governor, and a council of seven persons, appointed by him should hold office for two years, after which their successors should be chosen by the people. Cities and towns should be governed by officers elected for one year only. Revenue to support the government should be derived from a duty of fifteen percent ad valorum on all goods from foreign ports, and a tonnage tax of fifty cents on all foreign vessels. Frémont was appointed military commander, with authority to recruit his battalion to a maximum strength of three hundred men, to garrison the principal towns and defend the country. Gillespie was appointed governor's secretary, and for the present with a force of about forty or fifty men, was left in command at Los Angeles, while the commodore, who retained for himself the title of governor, returned to Monterev.

The conquest of California—if that can be called conquest in which no resistance is made—was complete. A whole province had passed willingly, so far as the great majority of its people were concerned, from the possession and the control of one nation to another. Wherever the new flag had appeared, it was speedily accepted, if not in fact welcomed. Where opposition had appeared, it had been offered to armed men, who

wearing no uniform, carrying no flag, and avowing no authority except their own, had attacked peaceful and well-disposed people in their beds, taken and kept possession of their homes and property, and pretended to set up a new government in place of that they were seeking to overthrow; and all the bloodshed had been in consequence of this lawless conduct.

Before leaving for the south, Stockton had appointed Rev. Walter Colton, chaplain of the Congress, alcalde at Monterey, the Mexican incumbent of that office having abandoned it. Nearly a month later, on August 26th, Captain Montgomery appointed Lieutenant Washington A. Bartlett alcalde at Yerba Buena. On September 15th, elections were held and both were formally chosen, Colton defeating six other candidates and Bartlett two. In course of time, American alcaldes were appointed at San José, Santa Cruz, Sonoma and the principal centers of population in the south. These were judicial officers who were governed by, and administered the laws of Mexico, so far as they could ascertain what they were: but this was a matter of no small difficulty at times, and the new officials were often constrained to resort to the common law of England, if they knew it, the Mosaic law, the customs of the country, and their own good sense, in determining the variety of causes they were required to pass upon. Colton had great regard for the right of trial by jury, and the first time a case of sufficient importance to be so tried was presented in his court, he had a jury impaneled. An American charged a Frenchman with having appropriated some lumber of his, and though he offered to pay for it, refused to accept the money.

WASHINGTON A. BARTLETT

Lieutenant of the United States sloop-of-war Portsmouth. Captain Montgomery appointed Bartlett first alcalde of San Francisco, August 26, 1846, and on the 15th of September following Bartlett was elected to the office by the people, defeating Robert T. Ridley. On January 30, 1847, a notice appeared in the California Star, signed by Washington A. Bartlett, ordering the name, San Francisco, to be used on all public documents or records appertaining to the town. Bartlett served as alcalde until February 22, 1847, when he was ordered to his ship and Edwin Bryant was appointed alcalde by General Kearny.

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There were no lawyers; the plaintiff and defendant each presented his own case. Some of the jurymen spoke English, and some Spanish. The plaintiff spoke English and the defendant French, and the witnesses all the languages known in California. Hartnell acted as interpreter, and Colton says, "We got along very well." The trial lasted five or six hours, and the inhabitants of Monterey watched its progress with the utmost satisfaction and curiosity. It resulted in a verdict requiring the plaintiff to accept what had been previously tendered him, and pay all costs.

Colton and Dr. Robert Semple started a newspaper, "The Californian," at Monterey, the first in California. It was issued weekly, on Saturdays, and the first number appeared on August 15, 1846. It was printed on a press found at Monterey—probably the one brought by Figueroa—and from type so old and rusty that each separate piece had to be scraped and polished before it could be used. A sheet of tin cut into strips with a jack knife, furnished the leads and rules, while the paper was of the kind which the Californians used for rolling cigarettes. The sheets were but little larger than foolscap page, which folded, made a paper of four pages. It was printed in both English and Spanish, and soon secured a circulation embarrassingly large because of the difficulty of getting ink and paper.

The municipal affairs of Yerba Buena demanded more of Alcalde Bartlett's time and attention than Colton was called upon to give to those of Monterey. Residents of the growing town appear to have blamed him for not promoting its growth as he might have done, as after his retirement he was charged with hav-

ing neglected to have its survey extended. In 1839 Jean Jacques Voiget, a Swiss sailor, had been employed to enlarge the plat begun by Richardson in 1835, and he had laid out and mapped the blocks bounded by Montgomery, Clay, Dupont (Grant Avenue) and Pacific streets. In 1845 the prefect at Monterey was induced to have Voiget's survey extended, and a new map made showing Green Street on the north, Mason on the west, and Sutter on the south. The names of all owners were written across their lots on this map. which was at the time the only public record on which they could depend to prove their titles. It hung for a time in a saloon until Alcalde Bartlett took possession of and officially certified it as the one by which all lots had been granted. He also named Montgomery, Clay, Dupont and Washington streets, and possibly Kearny and Stockton also, as no street names had appeared on Voiget's map. But he rendered a still greater and more enduring service, by ordering that the use of the name Yerba Buena in all official documents should be discontinued, and that of San Francisco alone used. This was the name before all others which the discoverers of its site delighted to honor. It had been given to the mission which they founded here, to the port and the presidio, and expeditions by sea and by land had long been directed to it from distant parts of the world where Yerba Buena was not known, and had never been heard of.

Having completed his conquest of an unresisting people, Stockton returned north dreaming of plans for raising an army of a thousand soldiers with which to "march across Mexico and shake hands with General Taylor" at the gates of its capital. Frémont was sent to the Sacramento to seek recruits among the immigrants who were now arriving in greater numbers than ever, while the commodore sailed for Yerba Buena, where the people were to give him a reception in honor of his bloodless victory. Scarcely had he arrived there, however, when a swift-following messenger arrived from Los Angeles, with news that the whole south was in revolt, and that even Monterey was threatened.

Although this messenger arrived early on the morning of October 1st, Stockton did not allow the message he brought to disarrange the plans for his reception, which had been fixed for the 5th; nor did he fail, when that day arrived, to celebrate in various bombastic speeches, the victories he intended to achieve over the "cowardly assassins," who had dared to rebel against his authority. Meantime, an order was sent to Frémont at New Helvetia—where a party of Walla Walla Indians were reported to be threatening trouble, on account of the murder of one of their young chiefs-to march south immediately. On the 4th Captain Mervine with the Savannah sailed for San Pedro, and on the 13th the commodore followed with the Congress, while Frémont's battalion embarked on the merchant ship Sterling, which had been chartered for the purpose.

The trouble which Stockton was thus called upon to put down, was caused by Gillespie's bad management at Los Angeles. If that worthy had been an overzealous marplot as a messenger of conciliation, he now proved himself to be an arrogant mischief maker as a manager. No sooner was he left in command than he began to play the autocrat, making petty regulations

for the conduct of the people, which they resented because they could see no reason for them. There had always been a turbulent element in the city. It had probably incited the lynching which so aroused the indignation of Chico; and it had made trouble for Carrillo and Pico, as well as for the city's local officers. Sérbulo Varela had been its leader in several tumults, and he and some of his boon companions, taking advantage of the general resentment shown to Gillespie's regulations, began to organize resistance. Emboldened by popular sympathy, Varela and a small party made an attack on the adobe house in which the garrison was quartered, some time during the early morning of September 23d, but were driven off, with one of their party wounded. After daylight some persons were arrested by the soldiers, on suspicion of having participated in the attack, and as some or possibly all of these were innocent, the whole city was aroused. Varela's force was quickly swelled to three or four hundred. Captain José María Flores took command, with José Antonio Carrillo and Andrés Pico as his lieutenants, and Gillespie and his force, now reduced to not more than thirty or thirty-five men* was summoned to surrender. The summons was refused, and it was at this time the messenger was hurried off to Stockton.

For the next two or three days Gillespie and his party were besieged in their barracks, and meantime an attack was made on Benito Wilson and some twenty men who had been stationed at San Bernardino, as a defense against Indians, and to guard against

^{*}Ezekiel Merritt, of Bear flag fame, and some twelve or fifteen men had been sent a few days earlier to San Diego.

any attempt on the part of Castro to return and surprise Los Angeles. They were surrounded by a numerous party, who after exchanging a few shots, set the house on fire and compelled their surrender.

Flushed with their success—which had been won with the loss of one man killed—the Californians now returned to Los Angeles with their prisoners, three of whom had been wounded. Reinforced by these victorious allies, the besieging party made a second demand for Gillespie's surrender. As his provisions and ammunition were running low, and he could not hope to sustain a siege until help could arrive, he agreed to yield if permitted to march unmolested to San Pedro. To this the Californians consented, and he marched out with drums beating, and colors flying. Four or five days later he embarked on a merchant ship at San Pedro but did not leave the harbor.

Meantime Merritt and his party took refuge on an American whaling ship at San Diego, and Lieutenant Talbot and nine men, who had been stationed at Santa Barbara, were compelled to evacuate that place and take to the mountains. They were hotly pursued, the woods being set on fire in the effort to drive them from cover; but they succeeded in making good their escape, and after suffering many hardships made their way to Monterey.

The revolt had succeeded in every part of California south of Monterey, when Mervine arrived at San Pedro on October 6th. The Californians had taken new heart, were now united, and although but poorly armed and short of powder, they furbished up such weapons as they had, dug up some old cannon that had long

been buried, contrived to make some powder, though of very poor quality, and otherwise prepared to make a resolute defense.

Landing three hundred and fifty men from his ship, who were soon joined by Gillespie and his party, Mervine began his march toward Los Angeles on the 7th. The advance was more or less harassed by mounted parties, one of which had a small cannon which the horsemen dragged with reatas attached to the pommels of their saddles. This they managed to use more and more effectively as experience improved their aim, and some six or seven men were killed* by it before Mervine resolved to retreat and wait for reinforcements.

The assembly now convened for the last time, and as both governor and comandante had left the country, it invested Flores with the functions of both, making him in effect dictator for the time being, and Manuel Castro was sent to San Luis Obispo to spread the revolt in the north.

Stockton arrived in San Pedro with the Congress on the 23d, where he waited for some days expecting the arrival of Frémont. That worthy had put to sea on the chartered ship, but after being some days out, had met the Vandalia—on which Gillespie had taken refuge at San Pedro—from which he learned of Mervine's defeat, and also that horses would be difficult to obtain in the south, and had accordingly returned to Monterey. Arrived there he found a commission as lieutenant-colonel awaiting him, having but recently

^{*}The dead were afterwards buried on the island at the entrance to San Pedro harbor, which from this circumstance came to be known as Isla de los Muertos—Dead Man's Island, though Dana says the name was given it because the captain of an English ship was buried there.

LOS ANGELES IN 1853

Reproduced from a drawing by Charles Koppel in Geological Report of William P. Blake, Vol. V, Pacific Railroad Survey.

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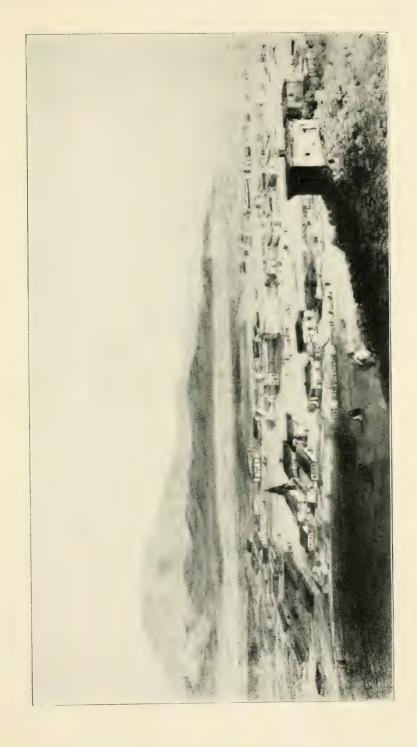
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arrived from Washington. Proceeding apparently upon the theory that a lieutenant-colonel must have a force worthy of his commission, and that no war could be made until he was ready, he set to work to procure recruits, supplies and horses. Recruiting officers were sent off to the Sacramento, Sonoma and other points north, and south, and horses and supplies were taken wherever found, often very much against the wishes of their owners, a policy that proved a very efficient aid to Manuel Castro in arousing rebellion in his former prefecture. Castro had perhaps not hoped to do more than organize some sort of guerrilla warfare, and with the aid of Joaquin de la Torre, José María Chavez and some others, he got together two or three armed bands, which, well mounted as they usually were, moved swiftly from place to place, endeavoring to strike small parties of Frémont's recruits, or capture horses and other supplies as they were collected for him. One of these parties captured Consul Larkin on the night of November 15th while he was on the way from Monterey to Yerba Buena, and held him for some time a prisoner.* It also encountered a small company of Americans on the following day, near Natividad rancho, and a sharp skirmish followed in which one American and two or three Californians were killed. Receiving reinforcements a little later the Americans renewed the fighting, losing their captain and three or four recruits, and the loss of the Californians was perhaps quite as severe. Larkin saw all the fighting, but found no opportunity to escape during its progress, and the Californians took him with them when they left the field.

^{*}He was not released until Los Angeles was taken nearly two months later.

Nearly a month later, and after Frémont had started south, Alcalde Bartlett and five companions were captured, while in the Santa Clara Valley, whither they had gone to purchase cattle. Their captors were, for the most part, well-to-do rancheros, who had been much exasperated by losses of horses and cattle taken by Frémont's recruits, and they probably took this opportunity to seize a conspicuous officer in the hope that while holding him they would be able to secure a pledge that their property would be respected. A party of marines from the Portsmouth was sent to the rescue, and these, joined by some members of Captain Weber's company from San José, went in pursuit of the alcalde's captors. Some skirmishing followed, lasting for several hours, in which two Americans were wounded and no Californians were hurt. Then a conference under a flag of truce followed, in which Bartlett and his companions were given up, and his captors were promised, though unofficially, that none of their property should thereafter be taken without compensation. Bartlett and his companions were well treated during their captivity, which lasted about three weeks, and it seems evident that the Californians had no other purpose in making them prisoners than that already mentioned.

Frémont moved from Monterey to San Juan on November 15th, and remained there until the end of the month; then he started south with perhaps four hundred and fifty men and several cannon. By the time the winter rains had begun, the roads were heavy, and feed for the animals scant. The cannon were moved only with much labor, and by the time the head of Salinas Valley was reached, so many animals had

been lost that they were dragged over the hills by the soldiers. The old Mission San Fernando was not reached until January 11th, by which time the war was over.

Stockton had waited a few days at San Pedro without landing any of his forces, and then as Frémont did not arrive, sailed for San Diego where he could begin the bloody work he had promised in his speech at Yerba Buena, more at his leisure. Here he waited until help came from an unexpected quarter.

In the spring of 1846, Colonel Stephen W. Kearny, then stationed at Fort Levensworth on the frontier, was selected to command an expedition to be directed against the northern provinces of Mexico, particularly New Mexico and California. He was then fifty-two years of age, had seen service in the War of 1812, and had then and subsequently won an excellent reputation as possessing all of the qualities which distinguish a soldier. The force he was now to command was to be composed of six squadrons of the First dragoons, two companies of infantry, two batteries of light artillery, the First regiment of Missouri volunteers, and a small party of topographical engineers, all to be known as the Army of the West. He was also authorized to raise a battalion of Mormon emigrants, among the people of that sect who had been driven from their homes and their City of Nauvoo in Illinois by mobs during the preceding year, and who were then seeking a refuge in the wilderness beyond the jurisdiction of the United States. In their flight they had abandoned a new temple, then almost completed, which they regarded with affection, if not veneration, and many had

been despoiled of property of considerable value. Some of them had spent the winter in camp near the western border of Iowa, and smaller parties had found such shelter as they could in the lee of the hills and of the wind-swept prairies. But notwithstanding the harsh treatment they had received, and the failure of the national government to protect them, some of their church authorities in the east had proposed to President Polk to furnish a substantial body of volunteers for the war with Mexico, in case he cared to accept them. In response to this proposal a recruiting officer was sent to their camps, and some five hundred of their young men enlisted, and marched with a second regiment of Missouri volunteers to join Kearny in New Mexico.

With his first division Kearny marched to Santa Fe, of which he took possession on August 18th, and here the second division arrived on October 9th and 12th. Previous to its arrival, on September 25th, Brigadier General Kearny—his new commission having overtaken him just before he arrived at Santa Fe-with three hundred dragoons, and two mountain howitzers, took up his march for California, leaving orders for the Mormon battalion to follow him, while the remainder of his army was to join General Wool in Chihuahua. The trail by which a few small parties of settlers had made their way westward, was not well marked; but on October 6th, at a point near the present City of Socorro in New Mexico, he had the good fortune to meet Kit Carson, Frémont's guide, who was returning east with Stockton's report of his bloodless conquest. Arranging to forward his dispatches by other means, Kearny with some difficulty, persuaded Carson to return with him,

STEPHEN WATTS KEARNY

Born at Newark, N. J., in 1794; died at St. Louis, Missouri, October 31, 1848. Major-General, United States Army and governor of California, 1846-7.

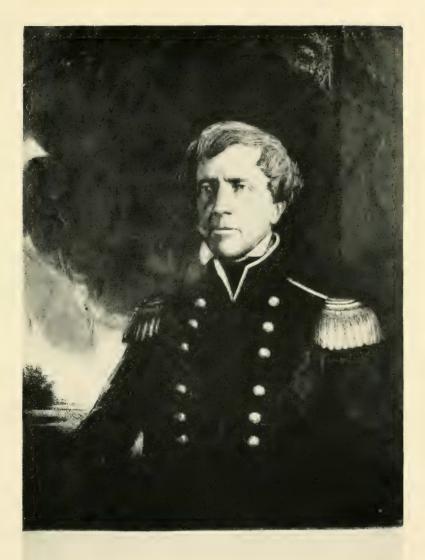
From a mezzotint engraving in the Library of Congress at Washington, reproduced for "The Beginnings of San Francisco."

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and sending back two hundred of his three hundred men, for which there seemed likely to be little use now that California had submitted without resistance, he resumed his journey with the remainder which, with Carson's party and the members of his staff, now consisted of one hundred and twenty-three men, all mounted on mules which seemed better fitted for the journey than horses.

After traveling two days with Carson, the wagons which had been brought thus far, were abandoned in order to expedite the march, so much as possible of their contents being transferred to pack mules. At the crossing of the Colorado, news was received of the revolt at Los Angeles, and the party hastened its march. On December 2d, Warner's rancho was reached, and two days were spent there in recruiting the weary soldiers who had suffered much from hunger and thirst, and lost many of their animals in crossing the desert. Here Kearny sent a dispatch to Stockton at San Diego, who, realizing that he was dangerously near a considerable force of the enemy, sent Lieutenant Gillespie with thirty-nine men to reinforce him. The two parties joined late at night on December 5th, at the Santa María rancho, the dragoons having marched all day in a cold rain. News was received here that a considerable force of the enemy was encamped only a few miles away and Lieutenant Hammond of the dragoons was sent to reconnoitre.

This force consisted of about eighty men under Andrés Pico, who had been sent out by Flores to cut off the retreat of Gillespie's party, which was supposed to be making a raid for supplies. They had no suspi-

cion of Kearny's approach. Unfortunately, Hammond was discovered while making his reconnoissance, and on reporting this fact to Kearny, it was resolved to attack at daylight, although Moore and others opposed. The call to saddles was sounded at two o'clock in the morning, a march of nine miles was made through rain and mud, and just at dawn the enemy was found to be mounted and in line, awaiting attack at the Indian village of San Pascual. Lieutenant Johnson was in advance with twelve of the best mounted dragoons, General Kearny with some members of his staff and a small guard followed, while behind in order came Captain Moore and Lieutenant Hammond with fifty dragoons, mounted on their way-worn mules and halfbroken horses, captured before crossing the Colorado, Gillespie with his volunteers, Lieutenant Davidson with the two howitzers, and finally Major Swords with the remainder of the dragoons.

Kearny had evidentally counted on an easy victory, and had not kept his column as well closed up as he should have done in anticipation of battle. He had the advantage in numbers, but his men were indifferently mounted, and in a combat with a well-mounted enemy, it might be difficult, as it proved to be, to get and keep all of them in action.

As soon as his column came within view of the enemy the battle began with a charge by Johnson, who was promptly followed by Moore. The Californians met this charge with surprising steadiness, and after a hand-to-hand conflict which lasted but a few moments, resorted to a stratagem which other undisciplined warriors have sometimes managed with success—they turned and fled at full gallop, and then when their pursuers had lost something of their compact formation in the chase, wheeled suddenly, and renewed the attack. In this they made excellent use of the lance with which they were armed, and which the dragoons were but poorly prepared to resist, as they had emptied their guns during the pursuit. Captain Moore was wounded and dismounted in the onset, but remounted and rushed at Pico, who was near him, sword in hand. Pico, like his fellows, was armed with a lance which Moore managed to parry, but in doing so broke his sword blade close off at the hilt, and was almost immediately killed by the lance of another Californian. Lieutenant Hammond, Moore's brother-in-law, who seeing his danger had hurried to his assistance, was also impaled by another lance, and fell mortally wounded beside him.* General Kearny and Gillespie were also wounded, the general slightly, and Gillespie—who was a good swordsman and fought gallantly—severely. It is said he might have been killed, but that the Mexican who had him at a disadvantage was too anxious to possess himself of his silver mounted saddle.

The battle was soon over. Seeing themselves outnumbered, the Californians maintained the contest only so long as they could cope with but a part of Kearny's command. By their ruse of retreating and then returning to the charge, they had placed their enemies, mounted as they were on their worn-out animals, at a serious disadvantage. They had also drawn the fire of their guns, which had been more or less harmlessly

^{*}The death of Captain Moore and Lieutenant Hammond is thus described by Judge Pearce of Sonoma County who was in the fight. See Annual Publications of the Historical Society of Southern California, 1903, p. 12.

discharged, when they were supposed to be hopelessly routed; and when they returned to the charge they had all the advantage of lance against sabre. This advantage was tremendous, so long as they were not overwhelmed by numbers, as the casualties sufficiently show.

In this short but sharp action the Californians were better commanded than they had ever been in previous battles, and proved themselves good soldiers. So far as known, none of them were killed and but few wounded, while they inflicted a loss of eighteen killed and nineteen wounded—three of them mortally—upon their enemy. All the dead, except Lieutenant Johnson, who fell shot through the head at the beginning of the fighting, were killed with the lance.

The Americans remained in possession of the field, and after burying their dead, and caring as they could for the wounded, advanced slowly toward San Diego. The Californians hung upon their flanks and rear, harassing them more or less continually until December 11th, when a relief party of two hundred marines sent out by Stockton reached them, and they were not further molested.

Stockton now hurried forward his preparations for the attack on Los Angeles, which he had been planning to make since early in October. Cattle and other supplies were collected from the country round about, and even from Lower California. But few horses were secured, and these of rather indifferent quality. By December 29th, all was at last ready, and the advance began.

An understanding between Stockton and Kearny as to who should command in this undertaking seems not to have been reached without some difficulty. It would seem natural that an officer of Kearny's rank and experience should have been given command without question, since operations were to be wholly on land; and Stockton himself appears to have thought so, although he was unwilling to give up his pretentions to the chief authority. He still claimed to be governor of California, although Kearny had shown him his own instructions and given him to understand that when his expected reinforcements arrived he would assume the office. It was finally arranged that Kearny should have active command, although Stockton accompanied him as commander in chief, and so the expedition started.

It was composed of a little more than six hundred men, two-thirds of whom were marines and sailors, who had for nearly two months been drilling as soldiers on shore; the others were Kearny's dragoons, and Gillespie's mounted volunteers.

On January 4th, when near Las Flores, they were met by a flag of truce, and a letter from Comandante Flores, in which he proposed a cessation of hostilities until the truth or falsity of certain reports he pretended to have heard, to the effect that the war between the United States and Mexico was about to end, could be ascertained; but Stockton refused to treat, or have any dealings of any kind with Flores, who he claimed had been his prisoner, and was now violating his parole—and the march was continued. At San Juan Capistrano, a day or two later, a proclamation was issued, offering

amnesty to all Californians except Flores, on condition that he should be given up; but though his popularity was now on the wane and the old spirit of dissension among his followers, was increasing, he was not betrayed. His enemies and friends alike now realized that the end was near. They knew that Frémont was approaching from the north, as well as Stockton from the south, either with a greater force than they could oppose to it. Their only hope was in delay, during which, however brief, the end of the war might come; and while that hope remained, they would immolate no victim.

On January 8th, the San Gabriel River was reached and about five hundred Californians on the opposite bank opposed the crossing. They were strongly posted on high ground five or six hundred yards from the water, with two cannon commanding the ford. But the home-made powder with which they were served, had but little power in it, and a resolute advance soon drove all from the field. The Americans lost two men killed, and eight wounded, and the loss of the Californians was probably not greater. There was some fighting, principally between the artillery, on the following day, while the Americans were crossing the mesa between the river and Los Angeles, though it hardly amounted to more than a skirmish.

Next morning two residents of the city appeared with a flag of truce to say that no further resistance would be offered, and to ask for such considerate treatment as the captors might incline to promise its people. About ten o'clock the victorious army marched in, and Gillespie was allowed to raise the flag over

his old quarters that he had been compelled to lower some four months earlier. The defeated army was nowhere to be seen, and was not surrendered. It was in fact several miles away arranging to negotiate a peace with another commander.

It had retired from Los Angeles toward San Fernando near which a remnant of it arrived the day after it left Los Angeles. Hearing of its arrival, Frémont sent Jesus Pico, whom he had recently captured, tried by court-martial, condemned, and ordered shot for breaking his parole as a prisoner of war, but subsequently pardoned at the solicitation of his family—to open communication with its commander. In consequence of his mediation, negotiations were begun, through commissioners appointed in approved fashion, and a treaty of peace drawn up which was signed by Frémont and Andrés Pico at the Cahuenga rancho on January 13th. So it happened that the man who had begun a needless war, in which others had done all the fighting; who had raised a considerable army that had never been near a battle; who had been cleverly outwitted by the only enemy in whose proximity he had been; and whose most warlike acts had consisted in spiking a few abandoned cannon and the shooting of three harmless non-combatants, finally received the surrender of the last remnant of the army which others had defeated, and signed a peace where there would have been no war but for his own meddling in matters he should have left alone.

California was once more at peace, and was to remain so, though under a more tactful and reasonable management than that which had recently controlled it. No effort had been made so far, to carry out the policy of the administration, which had been clearly set forth in all instructions, "to preserve, if possible, the most friendly relations with the inhabitants." An opposite course had been pursued, and those who had pursued it, were in time to answer for it. Stockton was quite resolved to continue as he had begun—to ignore Kearny whose instructions he knew—and appointed Frémont governor, although he had ignored him by signing a peace, knowing that he was within call.

But he did not appreciate the mettle of the man he had now to deal with. Kearny knew his duty, and had no thought of letting anything interfere with his doing it; but he was not disposed to make any unseemly bluster about it. He was for the moment embarrassed because the forces he was expecting had not arrived, and his command was small. He accordingly contented himself for the time being with notifying Stockton to show his authority from the government, or take no further action in regard to civil affairs. the commodore declined to do, refused to recognize Kearny, and withdrew the authority given him to command the forces furnished from the ships. Kearny sent Frémont a copy of his own instructions, which gave him command of the troops assigned to the Army of the West, "and such as may be organized in California"; and directed him to make no changes in his battalion without his order. Frémont declined to obey, saying that he had been commissioned by the commodore, and until the two commanders adjusted their differences, he should report to the one from whom he had received his authority. Here matters rested

JONATHAN D. STEVENSON

Born at New York, January I, 1800; died at San Francisco, February 14, 1894; came on the ship *Thomas H. Perkins* in 1847 in command of the First New York Volunteers, otherwise known as "Stevenson's Regiment."

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for the time being, Kearny withdrawing with his dragoons to San Diego, and notifying Stockton that he would leave him to explain his interference with his authority to his superiors in Washington.

From San Diego Kearny sailed to Monterey, where he soon after received notice of the arrival of the reinforcements he was expecting. The Mormon battalion, over three hundred strong, arrived at San Diego January 29, 1847; company F of the Third United States artillery landed at Monterey one day earlier, and the Seventh New York regiment, under Colonel Ionathan D. Stevenson came by sea during March. With the artillery company, which was commanded by Captain Christopher O. Thompson, came Lieutenants William T. Sherman, E. O. C. Ord, Lucian Loeser and Colville J. Minor, Dr. James L. Ord, contract surgeon, and Lieutenant Henry W. Halleck of the engineers. Of these Sherman and Halleck subsequently commanded the armies of the United States, Ord won distinction as a major-general during the war of the rebellion, Dr. Ord remained in California where he became prominent, and Halleck rendered distinguished service as secretary of state under Colonel Richard B. Mason and Bennet Riley, military governors, and subsequently as a member of the constitutional convention.

Kearny could now enforce his authority—which was confirmed by fresh instructions both to himself and Stockton dated November 3d and 5th. These were brought to the coast by Colonel Richard B. Mason and Lieutenant Henry B. Watson of the navy, who arrived February 12th. They specifically stated that the commander of the land forces was to be civil governor.

A joint circular was now issued by the general and Commodore Shubrick—who by this time had succeeded Stockton—announcing the order of the president: and Kearny also issued a proclamation assuming charge of the civil government and naming Monterey as the capital. Orders were sent Frémont to discharge all his volunteers who wished to be discharged and muster the others into the United States service; also to report in person at Monterey, bringing with him the records of his office. This Frémont, in spite of the evidence that he was in the wrong, was loath to do. He had fixed his residence in the most commodious house in Los Angeles, and assumed a state as governor that he could not lay aside so suddenly without a greater sacrifice of personal pride than he was willing to make; besides he probably relied on influences in Washington to sustain him, if he could maintain his position until they could be brought to bear. His "secretary of state" accordingly replied that "the governor" thought it unsafe to discharge the battalion "at a time when rumor is rife with threatened insurrection," and would decline to obey. Frémont, however, went to Monterey, where he had a somewhat unpleasant interview with the general—in the presence of Colonel Mason-which resulted in his promising to submit. To make sure that he would do so, Mason was sent south, nominally on a tour of inspection, but really to see that the promise was kept. On his arrival at Los Angeles, Mason found that the Frémont government had been maintaining itself by issuing due bills, or certificates, which, although made receivable in payment of customs duties by Frémont's

HENRY WAGNER HALLECK

Born at Westernville, N. Y., January 16, 1815; died at Louisville, Ky., January 9, 1872. Major-General, United States Army. He came to California on the transport *Lexington*, January 27, 1847, lieutenant of engineers with company F, Third United States artillery. Halleck was an accomplished Spanish scholar and became an authority on Spanish land titles in California. Colonel Mason appointed him secretary of state and General Riley continued him in that office, recognizing his ability and faithfulness.

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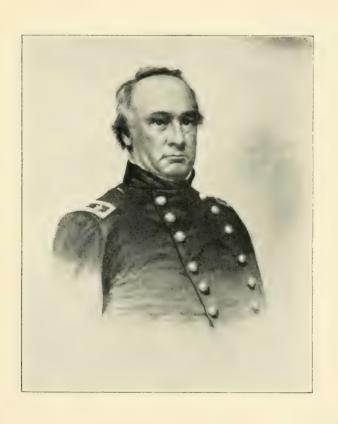
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order, were passing current at only about thirty cents on the dollar. He also found that Frémont had issued various other orders in direct conflict with Kearny's authority.

For some days his attempts to get information about Frémont's intentions, and as to what had been done or was doing, were unsatisfactory. Frémont was evasive and not over respectful. Finally when summoned to Mason's headquarters, he failed to respond until the summons had been sent a third time, and then showed such open disrespect that Mason threatened to put him in irons. This resulted in a challenge which Mason accepted, though the meeting was prevented by Kearny.

Frémont's unwillingness to give up his pretensions as governor was no doubt increased by the financial embarrassments in which his incompetence, as well as his recklessness, had involved his administration of affairs. He did not leave Los Angeles until May 12th. Meantime he had tendered his resignation as lieutenant-colonel, to Kearny, at his interview in Monterey, but it was not accepted. Subsequently he asked permission to go with his exploring party to join his regiment in Mexico, or to go directly east from Los Angeles, but both requests were denied. After he reached Monterey he was required to remain in town instead of camping with the members of his surveying party, who were with him; was not allowed to send for some of his old assistants, and was required to turn over his surveying instructions to Lieutenant Halleck. He had, in fact every reason to suspect that he was to be held to answer to the highest authority for his headstrong conduct.

Kearny did not long remain in California. Mason had been sent out to succeed him whenever he should be ready to return east, and on May 31st, he left Monterey with his escort for Washington. By his order Frémont with a few members of his topographical party accompanied him, and the two parties traveled together.

At Fort Levensworth, Frémont was ordered to consider himself under arrest and report himself to the adjutant-general in Washington. Subsequently he was charged with mutiny, disobedience of the commands of a superior officer, and conduct to the prejudice of good order and discipline, and a court-martial was ordered to try him. He was ably defended by Senator Benton, and his brother-in-law, William Carey Jones, but the court found him guilty on all charges and specifications and sentenced him to be dismissed from the service. This sentence the president approved, but remitted the penalty, and ordered Frémont to report for duty. He declined to accept the president's clemency, and resigned in March of the following year.

Frémont's greatest misfortune lay, not in his conviction by this court, and its consequences, but in the fact that he had been turned from a career in which he was admirably fitted to succeed, and in which he had already won high honors, to one for which he had no capacity at all. Had Gillespie never overtaken him at Klamath Lake, his fame would have been enviable. Benton had correctly said of him that scientific work was the passion of his life. As an explorer he was enthusiastic, enterprising, observant, accurate, and all that an explorer should be; as a field officer he was

vain of command, indolent, and all else that a field officer should not be. He seemed to rate the importance of his position wholly by the number of men subject to his authority, and not at all by what he might or did accomplish with them. It was his vanity, and his vanity only, that prompted him to make the meaningless excursion with his exploring party through the most thickly settled part of California, where there was no possible occasion for him to go, that led to his difficulty at Gavilan Peak. It was his vain desire for a larger command that led him to wait at Monterey, until all opportunity to be of service was past, when he should have gone immediately to Stockton's assistance. By going he might have been of some service, and won some distinction; by delaying he lost all opportunity except to receive the submission of the last remnant of an army which others had defeated. In a later and larger field he displayed all these faults more conspicuously and more disastrously for his fame. As commander of the western army at St. Louis in 1861, he surrounded himself with a brilliant staff of thirty-two people, and busied himself with organizing and lavishly supplying an army which he made no plans to use, and in issuing orders about matters that he had no authority to deal with. Later, while commanding a smaller army in the field, he permitted it to be attacked and defeated, in the only battle at which he was ever present, by a smaller army, that was at the same time operating against two others, either of which, like his own, should have given it abundant employment.



CHAPTER III. THE SETTLERS AND MILITARY RULE



HE old order had now passed away; a new order was beginning though not yet begun. The rule of Mexico in California had ended, but the United States, though in possession, was not yet in control; and must, for the time being, govern provisionally through its military officers. It was peculiarly fortunate in designating those who were to serve in this respect. Kearny, Mason, and Riley managed its government for a period of nearly three years, with marked ability, and with entire credit to themselves and their profession.

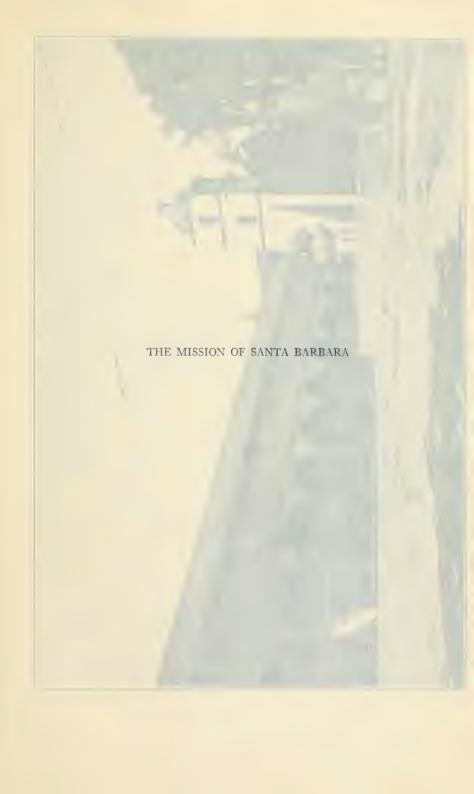
Two men, venerable in years and good works, and whose names will ever command a respectable place in the history of California, passed away just as the era in which they had lived and labored was drawing to a close. Francisco Garcia Diego y Moreno, first bishop of California, died at Santa Barbara, April 30, 1846. He was born in Mexico, had served as a missionary at Santa Clara, and also as prefect of the Zacatecan friars. He became bishop in 1841, when he fixed his episcopal residence at Santa Barbara. He had formed elaborate plans for extending and enlarging the work of the church in the new diocese, but the means promised him were not furnished, and what he had hoped to do himself, was perforce left to others.

Fray Narciso Duran, the last and perhaps the ablest of the Franciscan prelates, survived the first bishop but a few months. He was born in Spain, and had served in California nearly forty years, twenty-seven of which were spent at Mission San José. This was only a small establishment when he began his ministrations there in 1806, but under his charge it grew rapidly

until only one other in California exceeded it in the number of its neophytes. He was as successful in temporal as in spiritual work. Although his mission was exposed to frequent raids by Indians from the great interior valleys, who sometimes stole its horses and cattle in considerable numbers, it at one time possessed 18,000 cattle, 1,425 horses, and 20,000 sheep, while its fields produced 13,680 bushels of wheat, 16,750 of barley and 17,230 of corn. Its garden was famous. It was provided with water from a spring in the hills above the mission, which also supplied a fountain. Padre Duran organized and drilled one of the largest bands at any of the missions, and a large volume of music, still extant, is supposed to have been written by him. As the last prelate of the Franciscans, he stoutly opposed secularization, though one of the first to recognize it as inevitable; and he worked tirelessly and judiciously to have it brought about with the fewest sacrifices possible. His letters of suggestion and advice to Figueroa, while the governor was drawing up his famous reglamento, show that he offered no captious resistance to what was to be done, but with true Christian resignation, strove faithfully to be as helpful as he might in lessening the disasters he could not avert.

San José was one of the northern missions turned over to the Zacatecanos in 1833. Padre Duran removed to Santa Barbara where the remaining years of his life were spent. He died June 1, 1846, aged nearly seventy years.

The war with Mexico halted the westward movement of home-hunting pioneers only slightly in 1846; but



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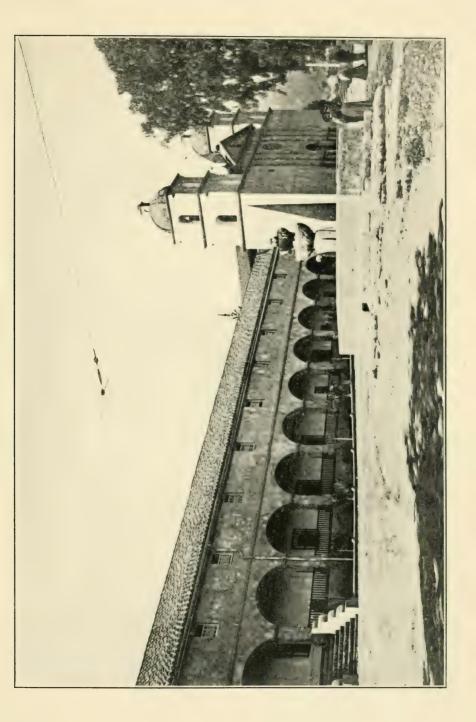
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while it lessened the number of those who otherwise would have started with their families, a thousand or more came as soldiers who remained in the country after their term of establishment had expired.

One of the largest parties came by sea, and arrived at Yerba Buena on July 31st, after a tempestuous voyage. It was a Mormon colony, composed of two hundred and thirty-eight persons—seventy men, sixtyeight women, and one hundred children, and came from New York by the ship Brooklyn, under charge of Elder Samuel Brannan. It had sailed early in February, in pursuance of the general purpose of people of that sect to escape persecution by removing to a distant part of the unsettled west, where they would found a settlement of their own. No site for this settlement had been chosen in advance, nor was anything more definite fixed upon than that it should be beyond the Rocky Mountains. While those from the west, principally from Nauvoo, Illinois, and Lee County, Iowa, were to go by wagons, those from the Atlantic states were advised to go by sea, as being cheaper and more convenient. So this party had sailed for San Francisco, though how far it might be from the general rendezvous, when finally chosen, nobody seems to have guessed; but as the general plan of the migration had been to halt at some promising spot on the march, and grow a crop to supply food for the remainder of the journey, the distance, whatever it might be, was perhaps not regarded as a matter of great consequence.

The party was composed largely of farmers and mechanics, who brought with them an abundant supply

of tools and such other articles as they were likely to require. Brannan also bought a more or less complete outfit for a printing office with him, which he had used in the east in the publication of a religious paper called "The Prophet"; with this in the following January he began the publication of "The California Star," a purely secular paper. "The Californian," which Colton and Semple had started at Monterey, was subsequently removed to San Francisco and consolidated with it, and the two became later "The Alta California."

The arrival of this colony made a notable increase in the population of Yerba Buena, though many of them did not long remain there. Being a thrifty people all sought employment wherever they could find it. Some crossed the bay, and went to cutting lumber, some found employment at their several trades, while the farmers, to the number of twenty or more, went in search of a promising spot on which to plant and grow a crop, and pitched upon the north bank of the Stanislaus, not far from its confluence with the San Joaquin. Probably three-fifths of this party subsequently found their way to Salt Lake; the others remained in or near San Francisco for a time and later joined a Mormon colony near San Bernardino.

Later in the season several parties arrived overland at Sutter's fort, where many of the younger men enlisted and marched south to join Frémont's fruitless expedition against the insurgents at Los Angeles. So enterprising were the recruiting officers that scarcely men enough were left to care for the women and children.

SAMUEL BRANNAN

Mormon elder and chief of the ship Brooklyn colony, was born at Saco, Maine, March 2, 1819; died at Escondido, Mexico, May 5, 1889; came to California on the ship Brooklyn, arriving July 31, 1846, with a company of 238 Mormons, the van-guard of what was expected to be a great Mormon migration. He established the second newspaper in California—the California Star, which became the Alta California. Brannan was a very able and energetic business man and became one of the richest men in California. Brannan street in San Francisco bears his name.

This picture represents him as he was in 1846.

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One of the largest of these overland parties was led by Lilburn W. Boggs, ex-governor of Missouri; smaller ones were commanded by George Harlan of Indiana, Joseph Aram of New York, Andrew J. Grayson, afterwards famous as an ornithologist, William H. Russell of Kentucky and Edwin Bryant, whose book, "What I Saw in California" is relied upon by all writers on California history. Some of these parties, though quite small, made the trip without encountering greater dangers or hardships than were met with by all immigrants of that time. Many of their members started originally for Oregon, but were in various ways persuaded to come to California instead. L. W. Hastings, James M. Hudspeth and James Clyman, who had first gone to Oregon, and thence to California, met the trains of that year east of Fort Hall, and prevailed on many who would otherwise have gone through as they had originally intended, to seek homes farther south. Hastings pretended to have discovered a new and shorter route around the southern end of the Great Salt Lake, which was not only easier and better provided with grass and water, but over two hundred miles shorter than that previously followed; and these representations, together with what all three said about the superior soil and climate of the southern country, were very effective arguments.

Jesse Applegate, who had gone to Oregon in 1843 with the Burnett party, was also at the fort, recommending a new and shorter route which he had explored, and which led into southern Oregon, where he had fixed his home. He wished to get his part of the territory settled as rapidly as possible, and being

a man of energy and a persuasive talker, he prevailed upon a considerable number to try his new route. It led westward to the Humboldt, and then after following that stream for some distance, turned to the northwest and crossed the mountains into Oregon near the present state line. Many Californians later followed this route for a considerable distance north of the Humboldt, entering California by way of the pass north of Lassen's Peak, through which Jedediah Smith had crossed the range in 1826. Those who were persuaded to try these cut-offs, as they were called, either in this or later years, had cause to bitterly repent their choice.

One of the large overland companies of 1846 was the Donner party, the story of whose misadventures and sufferings is without a parallel in the history of the settlement of the continent. It consisted of the brothers George and Jacob Donner, and their families, James F. Reed and family, Baylis Williams and his half-sister Eliza Williams, John Denton, Milton Elliott, James Smith, Walter Herron, and Noah James, all from Springfield, Illinois; William H. Eddy and family, from Belleville, Illinois; Patrick Breen and family and Patrick Dolan, from Keokuk, Iowa; Mrs. Murphy, widow, and children, from Tennessee, her sons-in-law, William H. Pike and William H. Foster, with their families, William McCutcheon and family, from Jackson Country, Missouri; Lewis Keseburg and family, Mr. and Mrs. Wolfinger, Joseph Rhinehart, Augustus Spitzer, and Charles Burger, natives of Germany; Samuel Shoemaker, of Springfield, Ohio: Charles T. Stanton, of Chicago: Luke Halloran

of St. Joseph, Missouri; Mr. Hardcoop, a Belgian; Antonio and Juan Bautista, Spaniards, from New Mexico; Franklin W. Graves and family, his son-inlaw, Jay Fosdick and wife, and John Snyder, all from Marshall County, Illinois—eighty-eight souls, all told.

These people had not voluntarily chosen each other's companionship; they had been thrown together by the exigencies of the journey. Families from the same locality had perhaps known each other before starting, but knew nothing of the others until they met them on the trail. Those from Iowa first saw the Donner and Reed party at Independence, and the Graves family did not join them until all had passed Fort Bridger. The remaining members had been encountered from time to time between the Missouri River and Fort Laramie, up to which point all except possibly the Graves family, had travelled with a larger party bound for Oregon. After leaving the main train these had kept together for better defense against the Indians, and because in that way they could lessen the labor of guarding their camp by night and looking after their driven animals by day. They were not an entirely harmonious party from the beginning, and there was a lack of fellowship even in the darkest hour of their extremity. This was to some extent due no doubt to differences in nationality, temperament and mode of living; to some extent also to the fact that some had more property to be cared for than others. The relations of camp and trail in a long journey of this kind must necessarily be more intimate than can be agreeable to people of different habits and inclinations, and it is not surprising that the enforced association of such persons, under the desperate conditions in which these found themselves, especially after leaving the Salt Lake, should lead to the contentions which were so largely responsible for their sufferings.*

For a time after entering upon the treeless prairies west of the Missouri, their experience was not unlike that of other immigrants. The weather was pleasant, grass and water abundant, and traveling more like a pleasure excursion than a toilsome journey. Camp was made each evening amid pleasant surroundings, and Mrs. George Donner, who was something of a botanist, wrote her friends describing with enthusiasm the various wild flowers with which she had not before been familiar. The trials of the camp and trail had not yet overcome their pleasures; nothing suggested the need of haste, or warned them of the dangers that loss of time might bring to them.

When Hastings and Hudspeth were encountered near Fort Bridger with the story of their newly discovered cut-off, this party was easily persuaded to try it, particularly as Bridger, the old trapper, and his partner Vasquez recommended it. Leaving the fort on July 29th, they traveled in company with the Harlan party until the entrance to Weber Cañon was reached, where they turned back, deeming it impassable, although the Harlan party went through it in seven days. Returning for two days along the trail

^{*}Parkman, the historian, made the trip from the river to the mountains, which he describes in *The Oregon Trail*, during the same year, and saw much of the immigrants who were on their way to both Oregon and California. Some of the incidents he mentions may have formed a part of the experience of the Donner company.

over which they had just come, the Donner party crossed the Wasatch Range and entered the cañon of a small creek from which they emerged only at the end of three weeks of most incessant and discouraging toil.

They reached the Salt Lake, September 1st, with their animals much worn and exhausted. They were a month late; all the other trains were far in advance. Their supplies were beginning to fail and there was now no place where they could be replenished. Their situation was already beginning to be desperate, though they did not then realize it.

Passing around the southern end of the lake they entered upon a trackless waste of sand and lava, which they had been told was only fifty miles wide; it was really seventy-five. They had expected to cross it in one long march, or at least, in not more than two days, but it required four. Their thirst became intolerable. Their animals became unmanageable and many of them stampeded. James F. Reed, who had three wagons drawn by eighteen oxen lost all of them but one ox and one cow, when still twenty miles from water.

Burying most of his goods in the sand, with one wagon drawn by his ox and cow, and carrying his youngest child in his arms, while his wife and three other children walked beside him, he reached the edge of the desert long after the other members of the party had arrived there. Hitherto, his had been one of the best-equipped families in the party; now they were almost helpless. Two other families loaned them an ox each, and with these and their own ox and cow, they arranged to continue the journey.

Although all now realized the urgent need of haste because of the lateness of the season, it was necessary to wait here several days to recuperate their jaded cattle. A careful account of provisions was taken, which showed that the utmost economy must henceforth be practised. Two of the younger members of the party, Stanton and McCutcheon, here proposed to go forward and procure fresh supplies from beyond the mountains, and their offer was gladly approved. Taking a horse each and a scant supply of food, they started on September 20th, one of them leaving a wife and infant child to be cared for by their companions.

Shortly after their departure the main party resumed its journey. Their half-starved animals could travel but slowly where the trail was fairly level; whenever a hill must be crossed, it was necessary to double teams, and sometimes as many as six teams could hardly haul one wagon to the top. The Indians who had so far been only annoying, now began to be threatening. They watched constantly from the hill tops during the day, for an opportunity to attack any wagon that lagged behind the others, or to capture any animals that wandered beyond the protection of the herders; and at night stole everything that was not carefully guarded. Under such circumstances the utmost harmony was desirable, but this ill-assorted party became less harmonious than ever.

At Gravelly Ford* on October 5th, Snyder, one of the best-natured members of the party, lost his temper because his oxen acted badly while climbing a hill, and

^{*}Gravelly Ford was almost nine miles east of the present station of Palisade on the Central Pacific railroad.

began to beat them unreasonably. Reed remonstrated with him, and from words they soon came to blows. Mrs. Reed interfered and Snyder is said to have struck her. Reed drew a knife and stabbed him, inflicting a wound from which he died almost instantly.

The train was immediately halted. Snyder had been a favorite, and no explanation of the affray in which he had met his death, was listened to. Some demanded the instant execution of his murderer, and one or two began to make preparations to hang him; but calmer councils finally prevailed. It was decided to expel Reed from the camp, but to allow him to take no food or any means of procuring it. He was in effect condemned to death without appointing his executioner, as it was not thought possible that he could live to reach California where alone food could be obtained; but that night his twelve year old daughter carried or sent to him his rifle and a small supply of food, with which he managed to complete the journey.

Deprived of two of their strongest members, and with a woman and four small children bereft of their natural protector added to their responsibilities, the remainder of the party were now less competent than ever to defend themselves, or protect their property from the Indians. At the sink of the Humboldt on October 12th, twenty-one of their animals were stolen in one night. Several families had neither horses nor oxen left, and their wagons had to be abandoned. All who could do so must now walk, and they were still some hundreds of miles from their journey's end. Men took what they could on their shoulders, while the women, among whom were seven with nursing infants,

and the children, many of whom were less than ten years of age, wearily followed them; only the sick were allowed to ride.

On the desert between the sink of the Humboldt and the lower crossing of the Truckee River, the Belgian, Hardcoop, an old man, sank down by the way and was left to his fate. No one could venture to help him without imminent danger of sacrificing his own life, or that of some one who had stronger claims on him. A few days later Wolfinger and Keseburg fell behind the train, and the former was never seen again. Searchers who went back to look for him found his team and wagon, but no sign of the owner. It was supposed that Keseburg had murdered him, though later another member of the party is reported to have admitted some knowledge of his death.

On October 19th, a month after he and McCutcheon had left the party in search of help, Stanton returned with five pack mules loaded with flour and beef. They had reached Sutter's fort in safety, and its generous proprietor had supplied them with as much as was thought necessary to relieve the wants of the party, and the means to transport it, asking no payment. He had done more, for McCutcheon was sick and unable to return, and he had sent two of his Indian employees, Luis and Salvador, to assist Stanton on the way; and these now became members of the fated party.

They now had with them one of their own number who could tell of the difficulties they must still encounter. They had been admonished by a fall of snow a few days earlier that winter was nearly upon them, and yet they waited here several days before resuming their journey. During this wait William H. Pike was accidentally shot by his brother-in-law, William H. Foster, while cleaning a revolver. The original company was thus reduced to seventy-nine persons, for two had died, two had been murdered, one accidentally shot, one left to die on the trail, one had been banished and another had gone with him, while McCutcheon had been left sick at Sutter's fort. The two Indians added to these made eighty-one in all.

Resuming the march, each as he felt inclined, they struggled forward without organization, and reached Donner-or Truckee Lake, as it was then calledsome arriving on the 28th, some on the 29th, and some on the 31st of October. Snow had fallen to the depth of six inches, making their progress difficult. Some whose teams were strongest pressed on toward the summit until further progress became impossible, and leaving their wagons half buried in snow they returned, hopeless of making a further advance, to the lake, where their experience was to be memorable. A few of the more resolute and courageous persisted for a time in fruitlessly searching for a pass that might offer hope of escape, but none was found. A mountain wall made impassable by the pitiless snow, barred their passage to a haven of rest and plenty only ninety miles distant.

An abandoned cabin, built by another emigrant party in 1844* was made habitable for one of the larger families; and ruder shelters were built for the others. Six miles away from the main camp, the two

^{*}This cabin was built by some members of the Stevens party, and Moses Schollenberger spent the winter of 1844-5 alone in it.

Donner families and some of the single men who had come with them, built huts of brush and small saplings, which they covered with blankets and bed quilts. or contrived to make winter homes of their tents by piling brush around and over them. Such shelter as it was, having in this way been provided, the question of a food supply which was far more urgent, demanded attention; and for the first time the party appears to have taken united action. It was resolved to kill all their remaining cattle and horses, preserve the meat in the snow, and husband it with most prudent care. The starved and travel worn animals had but little flesh on them, and there would not be much nourishment in it; but it was their last resource as all their other supplies were nearly exhausted, and five months must go by before they could reasonably expect to pass the mountains.

Dismal as the outlook seemed, it soon grew worse. Their decision was hardly made before a storm came on which continued for a week, snow falling continually and to a depth of many feet. While it raged, the cattle and horses fled before it, or scattered seeking vainly for shelter, and most of them perished. When the storm at last ceased a wide-spreading waste of snow covered them, giving no hint as to where their bodies might be found.

The few animals that remained were killed, but furnished food for but a few weeks only. Hunters were sent out in search of game, but a small bear and a few ducks were the sole result of their efforts. A few fish were taken from the lake before the ice covered it, and no more were afterwards secured. It was only too evident to all that the day when starvation would overtake them was not far distant.

Death early began to take the weaker members of the party. Jacob Donner, who had not been in good health for some time, was first to go; Shoemaker, Rhinehart, Smith and Williams soon followed. Snow continued to fall at intervals, and some of the tents and huts were entirely covered. Wood was procured only with great labor; the supply of meat was so nearly exhausted that hides were boiled to a jelly and eaten without salt as their supply of that condiment was early exhausted, though the stomachs of most, starving as they were, revolted at the loathsome dish. The gaunt and hollow-eyed sufferers began to contemplate the one last horrible resource to which they must resort or die.

Early in December some experiments were made at improvising snowshoes, on which it was hoped some might cross the mountains; and on the 16th nine men, five women, and a boy of thirteen resolved to make the attempt. This party was known as the "forlorn hope," and consisted of Graves, his son-in-law, Jay Fosdick and wife, Eddy, Stanton, Dolan, Mrs. Pike, her sister, Mrs. McCutcheon, Lemuel Murphy, Antonio one of the Spaniards, and Sutter's two Indians, Luis and Salvador. They took with them food for six days, and on the second day crossed the summit. On the fourth Stanton became snow blind and the others had to assist him, although they were making progress but slowly and with great difficulty. Two days later they were compelled to abandon him

as he could go no farther. On Christmas a furious snow storm overtook them and for a week they remained in camp unable to leave it. They had been without food since the 22d, and the direst extremity now confronted them. They drew lots to determine who should die in order that the others might live. The lot fell to Dolan, the most hopeful and resourceful of their number, but not one among them could bring himself to take his life, even to save his own or all the others. The night following the difficulty resolved itself; Dolan went crazy and soon after died. Graves, Antonio and the boy Murphy, soon followed. The camp became known as the "Camp of death." The horrors of it can never be told, and need not be.

On the night of December 31st, the two Indians, guessing perhaps at the fate in store for them if they remained, stole away from the party. They had refused to eat the flesh of those who had been their companions, and had been without food for nine days. Nine days longer they struggled on together through the snow, but were finally overtaken and shot. Fosdick had died on January 4th, and the party was now reduced to seven—five women and two men.

On the day Fosdick died, Eddy shot a half starved deer, which for a few days furnished the party with food that was not revolting. On January 11th, twenty-six days after they had left their starving companions on the shore of Donner Lake, they passed the snow line and came to an Indian ranchería, whose inhabitants, frightened by their wretched appearance, at first ran away, but soon returned and gave them some acorn bread, the only food they had. They also

helped them along their way down the mountain for the seven days succeeding, until too weak and exhausted to go further they gave up in utter despair, and would have died there, almost in sight as they were of the help they were seeking, had not the Indians half dragged and half carried Eddy forward to Johnson's rancho.* Four men were immediately sent back for fifteen miles along the trail with food for Foster and the five women, who reached the ranch in safety the following day. They had been thirty-two days in crossing the mountain, during which time seven of the nine male members had perished; all the women had survived.

A party to carry relief to the sufferers remaining at the lake was now organized as speedily as possible. This was not easy, as most of the able bodied men had been induced to go south with Frémont; but by February 5th fifteen men under the lead of Reasin P. Tucker were ready to set off. Sutter and Alcalde John Sinclair furnished all the provisions required, together with animals to carry them to and beyond the snow line. There ten men, each taking as much as he could carry, set forward on foot, but two days later three of them turned back, appalled by the difficulties and dangers of the journey. On the evening of February 19th the other seven, after a most toilsome journey, reached Donner Lake.†

They found the huts of the starving immigrants covered with snow, which lay twenty feet deep all

^{*}Johnson's rancho was near the present town of Wheatland in Yuba County.
†These were Reasin P. Tucker, Aquila Glover, Riley S. Moultry, John Rhoads,
Daniel Rhoads, Edward Coffeemire, and Joseph Sells.

about them. Their occupants were living in deep pits out of which they climbed by the steps their comings and goings had made in their almost perpendicular walls. Since the departure of the "forlorn hope," more than two months had gone by, during which snow or rain had fallen continuously for many days together, and the nights had been freezing cold. While wood was abundant in the neighborhood, they had found it difficult in their weakened condition to get it. They had been able to find only a few of their lost animals, and had taken no fish or game. Their only food had been hides, and bones which some had boiled or burned until they could beat them into powder between two stones, and eat them. Some had already begun to eat the bodies of their dead comrades.

To people in such extremity the arrival of the seven, even with the scant supply of meat and flour which they had brought, seemed like the coming of ministering angels. The food was not more welcome than the hope that came with it, that other relief parties would come, and that possibly all who were now living might ultimately be saved. Eager inquiries were made about the fate of the fifteen members of the "forlorn hope," and these it was hard to answer, especially when the inquirers were members of their families. It would be scarcely less than cruel to tell Mrs. Graves of her husband's death, or Mrs. Murphy of the fate of her boy Lemuel; and besides it was of the utmost importance to inspire in all the hope that they might undertake the journey across the range, for some must undertake it or all would perish. So it was that the rescuers told nothing of the sad story they might have told.

Since the "forlorn hope" had left the camp, Charles Burger, Louis Keseburg, Jr., John L. Murphy, Milton Elliott, August Spitzer, Mrs. Eddy and her child, and two infants, children of Mrs. McCutcheon and Mrs. Pike, had died, leaving the number still alive in the two camps, fifty-two. Of these the members of the relief party now resolved to encourage as many as possible who were still strong enough to give hope that they might attempt the journey, to return with them. They had been obliged to lighten the loads with which they had started, while crossing the mountains, and had cached what they left behind in what seemed to be a safe place. This would stand the survivors in good stead, if they could reach it, and with its help a considerable party might be saved. And now the question was, who should make the attempt? George Donner had hurt his hand about the time the train had halted at the lake, and the wound, though seemingly a trifle, had not healed. His hand and arm were now much inflamed and swolen, giving him great pain and rendering him practically helpless. His wife refused to leave him, but was willing her two eldest daughters should go. Mrs. Jacob Donner's oldest son and stepson, Mrs. Wolfinger, Mrs. Reed and her eldest daughter and son, twelve and five years old respectively, two Murphy children, a boy of eleven and a girl younger, Mrs. Pike's two year old daughter, Naomi, three of the Graves' children, Mrs. Keseburg and her baby daughter, Edward and Simon Breen, Eliza Williams, John Denton and Noah James—twenty-one persons in all, finally made up the party. Two younger children of Mrs. Reed were found to be unequal to the journey after going a few miles from camp, and it was necessary to send them back, their mother consenting only upon the strongest assurance that another relief party would speedily be sent for them. Mrs. Jacob Donner's two youngest boys were not big enough to walk, and she preferred not to part with them until a stronger party of rescuers should arrive. One of the relief party carried little Naomi Pike to safety in a blanket swung over his shoulder; another carried Mrs. Keseburg's baby for one day, at the end of which it died and was buried in the snow. John Denton lay down in the snow toward the end of the second day's march, and was with much difficulty encouraged to continue until camp was made. Next morning he gave up, and although not dead, was left to his fate.

Arrived at the cache where the small supply of food had been left on the outward journey, all were horrified to find that wild animals had eaten everything. Rescuers and rescued alike were now face to face with starvation. They were still many miles from a human habitation; their only hope lay in the prospect that a second relief party might meet them, and on the fifth day after leaving camp this hope was realized.

After being expelled from the camp at Gravelly Ford, for killing Snyder, James F. Reed had made his way rapidly across the remaining part of the journey to Johnson's rancho, arriving there on October 25th. After a few days' rest he went on to Sutter's, where he met McCutcheon, now once more in health. Neither appears to have been at the time, particularly anxious about his family. Sutter, who had been informed of the number in the party, and the number of their

SELIM E. WOODWORTH

Born at New York, November 15, 1815; died at San Francisco in 1871. Commodore, United States Navy. As a lieutenant he came overland to Oregon in 1846, thence to San Francisco in the winter of 1846-7. He took charge of one of the Donner relief parties and did good work in the rescue of those unfortunates. In 1849 he was elected to the state senate and resigned his commission in the navy. He entered business in San Francisco and on the breaking out of the Civil War he re-entered the navy, and reached the rank of commodore. He resigned in 1867 and returned to San Francisco.

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horses and cattle, estimated that they would have sufficient food to serve until relief could reach them, even if they failed to complete their journey; and hope that they might do so had not yet been abandoned. Frémont's recruiting officers were still urging all able bodied men to enlist. Reed joined a company and was made lieutenant, with leave to return to the mountains until his family should arrive. Sutter furnished thirty horses and a mule loaded with provisions, and with these Reed and McCutcheon, aided by two Indian vaqueros, started for the mountains. In the upper part of Bear Valley they found snow two feet deep and the Indians deserted them. Without them they were unable to proceed, so they deposited their provisions in a secure place and returned to the fort.

As there were no men in the valley who could help them, Reed, on Sutter's advice, started for Yerba Buena, to ask the assistance of the naval commander. Going by way of San José, he found the lower part of the Santa Clara Valley occupied by the insurgents who had recently captured Alcalde Bartlett's party, and was delayed for several days, during which he joined the volunteers and took part in the fighting which ended in the release of the captives. He was delayed a month and a half by this incident, and did not reach Yerba Buena until late in January. There news was received of the arrival of the "forlorn hope" at Johnson's rancho, and the little community was easily impressed with the need for immediate action. A relief party to be commanded by Lieutenant Selim Woodworth of the navy was decided upon, and Reed hurried back to Sutter's, by way of Sonoma, leaving

it to follow by boat up the river. From Sutter's he pressed on with McCutcheon and a half-breed guide named Brittan Greenwood, to Johnson's. The few men left in the neighborhood were willing to render such assistance as they could. Johnson told them to help themselves to his cattle, five of which were killed and their flesh hastily fire-dried and packed, together with some seven hundred pounds of flour which Johnson's Indians were grinding with their hand mills while the beef was drying.

Only a single night was spent in these preparations, and on the morning of February 22d, Reed, McCutcheon, and seven volunteers, together with their guide, started up the mountain.* They knew that Tucker and his party had passed in seventeen days earlier, and hoped they might meet them by the way with all or part of those they were going to rescue. They had in fact started from the lake at the same time that Reed and his friends were leaving Johnson's, and every step now lessened the distance between them. Reed, thoroughly aroused at last, now urged his party to the utmost. On the fifth day they met Tucker and his famishing party. In it were Reed's wife and two of his children, but his appearance was not more welcome to them than to their companions. Starving as all had been when starting on their tedious journey through the snow, their condition had been even more desperate since they had failed to find the food cached in the mountains, which they had depended upon. They were of the people who had driven Reed from their

^{*}These were Charles Cody, Nicholas Clark, Charles Stone, Joseph Gendreau, John Turner, Hiram Miller, and Mathew Dofar.

company four months earlier, sending him forth into the wilderness to starve, as they supposed; but now all thought of that was forgotten. He had come to save them from starvation. They held out to him their wasted hands and begged for bread. "I cannot describe the death-like look of these poor people," Reed wrote in his diary, "Bread! Bread! Bread! Bread! Bread! was the begging cry of every child and grown person." He had bread to give, for luckily, weary as he was, he had spent the preceding night in preparing some, at his camp; but he was forced to give sparingly lest what he should give to save, might more speedily destroy. In spite of his precautions, one boy, William Hook, found opportunity to help himself during the night, and next morning was found to be dying.

Having relieved the wants of these sufferers, Reed and his friends pressed on to the rescue of those still left at the lake. What they had just seen, admonished all of the urgent need of haste. Reed's two younger children were still among the starving, but he was scarcely more anxious to get forward than the others. On the evening of February 28th, after having made fourteen miles through soft snow, camp was made; but three of the ten continued on, hoping to reach the sufferers before they slept. They reached the main camp early next morning and found all still living, though many were very feeble.

When the remainder of the party came up, preparations were begun for the return, and on March 3d, all who were able to travel were made ready to set forth. There were seventeen of these: Mr. and Mrs. Breen with their five children, Reed's two children, who had

been living with the Breens after they had been sent back by the Tucker party, two children of Jacob Donner, Solomon Hook, Mrs. Donner's son by her first husband, and Mrs. Graves and her four children. All were very weak and some of the younger children were carried on the shoulders of their rescuers. It seemed hardly possible that all would cross the mountains alive, even if the weather should favor; if overtaken by a storm, all might perish. Yet the attempt must be made. The provisions ten men had carried on their shoulders could last twenty-seven people but a short time, and something must be left for those who remained behind. These were George Donner, his wife and three children, Mrs. Jacob Donner and two children, the Spanish boy, Juan Bautista; Mrs. Murphy and her son Simon, and Keseburg, were left at what had been the main camp. George Donner's inflamed hand and arm were now very painful, and his heroic wife, still one of the strongest of the sufferers, refused to leave him. She was unwilling also to part with her three remaining children, and Mrs. Jacob Donner also clung to her two remaining sons, hoping possibly that other rescuers would arrive in time to save them. It was plain that George Donner could never leave the camp alive, and as all the children were too young or too weak to procure wood, and keep the fires going-which must be done or all would die-it was arranged that three of the rescue party, Clark, Cady and Stone should remain with them.

Clark devoted himself with some energy to hunting, and on the second day wounded a bear which he followed for some distant but did not succeed in killing it. When he returned to camp he found to his dismay that Stone and Cady had deserted him. A storm was coming up, and they had decided that to remain would mean to meet almost certain death; they had therefore resolved if possible to overtake the party now in the mountains. As they were leaving, Mrs. Donner, who had previously offered five hundred dollars to have them taken to safety, had persuaded them to take her three remaining children with them—three little girls, Frances, Georgia, and Eliza. They took them as far as Keseburg's cabin, and there left them. It is charitable to suppose they did this because of the approaching storm which might make it impossible to save themselves.

The storm proved to be a terrible one, lasting nearly a week, during which snow fell almost continually. Clark, who was now a member of the starving party, was almost as helpless as the others. He could not hunt; it was even impossible to obtain wood, and while the storm lasted there was no fire in either of the Donner tents. All their occupants suffered severely from cold; Lewis Donner died, and was buried in the snow, and his mother, Mrs. Jacob Donner and her other son, soon followed.

After the storm had passed, Clark succeeded in killing a young bear, which he divided with Mrs. Donner, and taking the Spanish boy with him, started back over the mountains. Mrs. Donner was now left alone with her dying husband.

Meantime the Reed relief party and the seventeen sufferers they had taken with them, had been overtaken by the storm in the mountains. For one whole day they breasted it, carrying the children and helping those who were weakest as they could. They had no food left. To halt meant to starve unless relief should come, as they were still many miles from safety. Some provisions had been left at a point still some distance in advance, and three of their number were sent forward to procure them; but wild animals had found and eaten the food, and while pushing on to the next cache, the storm overtook them, and they could neither go forward nor return.

The remainder of the party were at last obliged to halt in a bleak and wind-swept part of Summit Valley. With much difficulty they procured fuel and built a fire before any were frozen. Then by gathering boughs from the straggling trees and piling snow over and around them, a shelter was made that furnished some sort of protection from the pitiless blast. Though nearly exhausted Reed kept at work, heaping up more boughs and snow until he fell helpless and unconscious. As the fire within died down from want of attention, Mrs. Breen was awakened by the cold, and suspecting what had happened, hurried outside. Arousing some of the others the fire was replenished and Reed was carried inside, where after much rubbing he was revived.

While the storm lasted, the utmost exertions of the remaining rescuers were required to procure wood and keep the fire going. Some of them became disheartened, but McCutcheon and Miller never relaxed their efforts; to do so would have meant death for all. Mrs. Graves died the first night after the storm began, and was soon followed by her son Franklin and Isaac

Donner. The rescuers saw that unless they could procure relief all must die. It was not possible to move the camp; they could not carry the children through the new fallen snow, and some of the older members of the party could not walk. Some of them must therefore make a final effort to reach Johnson's and send back help. Taking with them Solomon Hook, and Reed's daughter Martha, who could walk, and his little son Thomas, who had to be carried, they set off leaving behind eleven wretched sufferers to maintain themselves at "starved camp" with such hope as they could until help should come.

The three who had been sent off to fetch the cached provisions just before the storm began, reached Bear Valley where they found Lieutenant Woodworth and his party camped in the snow. Two men, John Stark and Howard Oakley, immediately set off, with such small packs of supplies as they were able to carry, to sustain the sufferers until a larger party could arrive. On the way they met Reed's party, with Cady and Stone from Donner Lake, who had overtaken them during the three days that had passed since leaving "starved camp." All were in a most pitiable condition, for besides having suffered much from long fasting, the hands and feet of some had been frost bitten and all were nearly exhausted.

When they had been safely taken to Woodworth's camp and had told their story, another advance relief party was organized. In it were Foster and Eddy of the "forlorn hope," while the others were Hiram Miller, William Thompson, John Stark, Howard Oakley, and Charles Stone. Of these Stark, Oakley, and Stone

were to bring in those who were at "starved camp," if any should be found alive, while Thompson and Miller, together with Foster and Eddy, each of whom had a child still at Donner Lake, should press on to their assistance and that of those who might be caring for them.

It was now near the middle of March* and those still left at the lake as well as the eleven at "starved camp" for three full months, had rarely had anything to eat but hides and bones, except when they had resorted to the loathsome food which is the last desperate resource of the starving.

The party at "starved camp" after Reed and the other rescuers had left them, consisted of Patrick Breen, his wife and nine children, five of whom were their own, while the others were Mary Donner, and Nancy, Jonathan, and Elizabeth Graves. Two of these were infants. Patrick Breen was so nearly famished as to be practically helpless; his oldest son, John, was in much the same condition. The hope of all was in Mrs. Breen, and few women have met the responsibilities of a desperate situation more heroically. She dragged wood from beneath the snow wherever she could find it, and kept the fire going by night and by day, for without it all must freeze. She nursed the infants—her own and the little orphan Mrs. Graves had left-with equal care, feeding them with snow water and a little sugar, carefully saved through all these weary months; or on a thin gruel made from meal saved with equal care for that purpose; and when one of them seemed to be dying, she broke a bit of

^{*}The exact date is not known.

sugar with her teeth and pressed it between its whitening lips. When the fire gradually sank down in the snow until it could be no longer seen, and its warmth was scarcely felt, she sent her son down into the pit to examine it. He found the fire on the ground. nearly thirty feet below. By means of steps made in the snow wall, and with the aid of a rude ladder made from a dead tree, she transferred the babes and other members of the party to the bottom of the pit, where less wood was required to keep them warm, and where with less effort she could make them more comfortable: and here she nursed, encouraged and kept them alive until relief came. And it came none too soon. Her strength was failing fast. When she climbed out of the pit on the ninth day of her lonely vigil, she felt it must be for the last time. A strange dizziness was overcoming her. The valley, the straggling tree tops and the vast expanse of snow were not like what they had been. She would perhaps have fallen, but she was startled by the sound of an unfamiliar voice calling her name. At last help had come.

Stark, Oakley and Stone now found that they must practically carry all of the eleven members of the party to Woodworth's camp, if they would save them. Such an undertaking seemed too formidable for Stone and Oakley, and they proposed to take Mary Donner and the three Graves children only; for Mrs. Breen would not consent to abandon any of the helpless members of her family, and it seemed impossible to take all. But Stark would not listen to this arrangement. As he saw his duty they had come to save all, and he would at least not fail to make the attempt,

even if he must make it alone. The others were not to be persuaded. Another storm was threatening, so taking with them Mary Donner and the Graves children, they left Stark to pilot the Breen family to safety if he could. That he did so is known, though the story seems almost incredible. He was a man of powerful build, with courage equal to his strength; and he is said to have actually carried five of the party a large part of the way to Woodworth's camp—taking one at a time for a short distance, and then returning for the others, and so by short stages carrying all to safety.

Foster, Eddy, Thompson, and Miller reached the lake without more difficulty than they had previously encountered. They found Keseburg still at the upper camp, and also Mrs. Murphy who was caring for the three Donner children that Cady and Stone had left there, her grandchild, George Foster, and Eddy's baby boy, James. She had kept them alive for three weary months, as Mrs. Breen had nursed the two infants in her care, but now they were dead. Mrs. Donner was with her when the relief party arrived, having come from her husband's bedside to see her children. They endeavored to persuade her to return with them and her children, as her husband was near death, and could live but few hours at most; but she refused to desert him. The rescuers did not dare wait. They must each carry a child across the mountains. The snow was still deep, and if another storm should come on they might not be able to save the children. Keseburg had hurt his foot and could not walk, and Mrs. Murphy was too near death to be

moved; and so leaving one courageous, self-sacrificing woman with her dying husband, and an infirm old man and a dying woman in two hunger stricken camps six miles apart, and each carrying a child, they left the place which an all merciful heaven seemed to have forgotten.

A fourth relief party returned to the desolate camp in April. Its members found Keseburg alone alive. The body of George Donner was found in his tent, but that of his wife was not there. She had watched beside him alone until the end came, and then carefully and lovingly prepared him for burial. Then her thoughts had turned to her children, and distracted and despairing, she had left the now desolate habitation in which she had suffered so much, to search for them. Thirty-three years later, in May, 1879, Keseburg, after much solicitation, told the story of her last hours to Mr. C. F. McGlashan, historian of the Donner party, and later repeated it in substantially the same words to Mrs. Eliza P. Donner Houghton, in his presence. Mrs. Donner had come to his camp in the middle of the night, cold and wet and freezing, and saving that she must find her children. It was only too evident that she was becoming delirious, and he said what he could to console and quiet her, but she would not be comforted. She gave him a little more than \$500, or told him where he could find it, and made him promise to deliver it to her children in case she should not reach them. She protested that she must set off at once, although evidently so far exhausted that she was scarcely able to stand. She refused the only food he was able to offer and soon sank to the floor, where he covered her with some blankets and a feather bed, and built a fire to keep her warm; but in the morning she was dead. Her long battle with death was ended. During all those weary winter months in that desolate camp she had been strong where others were weak, had hoped when others gave up in despair, had kept up the battle for her children until they were saved, and for her disabled husband whom she could not save, until she stood alone by his lifeless body, which she tenderly prepared for the grave in which it never was laid. Even then she did not think her duty fully done; and so with the blackness of night about her, with a spirit stronger than her wasted body, she set forth into the pitiless wilderness in search of her children, and the last remnant of her strength was expended in a hopeless effort to reach them. There have been heroic women in the world, in every age since Eden was shut to man, but in all the long list there has not been one more courageously patient, devoted and self sacrificing than Tamsen Donner.

Searching among the charnel houses, which the huts and tents and snow pits in which the sufferers had so long lived, had now become, for the money which wealthier members of the party were supposed to have left, and finding none, the members of this last relief party began to suspect that robbery and possibly murder had been added to the unnamed horrors of the place. George Donner was supposed to have a considerable sum of money, possibly \$15,000 with him, but none was found. Keseburg was charged with having robbed and perhaps murdered Mrs. Donner, and though he stoutly denied it, when a

rope was produced and he was threatened with hanging, he showed where he had concealed the \$500 which she, as he claimed, had intrusted to him for her children.

Taking such valuable belongings of the dead as they could carry, the members of the fourth and last relief party returned across the mountains, leaving Keseburg to his fate. He dragged himself after them as he could and finally reached the Sacramento alive. But the remainder of his life was a living death. Most horrible stories were told of the ghoulish manner in which he had lived through the awful winter at Donner Lake, most of which were false. He had killed a child and eaten the whole of it in a single night. He had cut up the bodies of the dead, and salted and packed the flesh away for future use-although all accounts agree that there was no salt at the camp from the first. He was believed by some to have eaten the bodies of his dead companions in preference to more wholesome food, and to have contracted a taste for human flesh that was still strong in him. Men and women shunned him; little children followed him in the streets and taunted him with his supposed cravings. No business that he undertook prospered. If he managed to get a little property together it somehow disappeared. In his later years two half witted children were born to him, and with these he found his only companionship. The mark of Cain was on him, and like Cain he may well have exclaimed, in the anguish of his loneliness, "My punishment is greater than I can bear. Behold thou hast driven me out this day from the face of the earth, and from

thy face shall I be hid; and I shall be a fugitive and a vagabond on the earth; and it shall come to pass that every one that findeth me shall slay me."

And yet Keseburg had probably done nothing worse than some of his suffering companions did, unless he had murdered Wolfinger. The murder was not proven—it was never in fact shown that the missing man was murdered. But from the time that suspicion fell upon Keseburg, he was a pariah in the company. All faults were charged to him; no crime was so foul but some would be found to believe he had or would commit it.

Two noteworthy characteristics distinguished the Donner party—its men were weak, its women strong. There was not among all its male members one really competent to command; and to this fact mainly, its sufferings and sad fate were due. A really competent leader would have ascertained in advance whether or not Weber Cañon was more practicable than the mountain route, before committing the party to it. A prudent captain would have made more ample provision for crossing the desert west of Salt Lake before attempting it; a forceful one would have prevented the dissensions which delayed progress on the Humboldt, and maintained a stricter guard over the cattle; a thoughtful one would not have permitted the delay at the lower crossing of the Truckee where Stanton was met. More than all, a commander of real merit, if finally entrapped in the snows, would have seen to it that the animals were killed, properly dressed, safely packed away under the snow, and thenceforth diligently guarded so that nothing might be lost that could preserve life. No one in the entire party appears to have

thought of these things, or made or endeavored to make the slightest provision against possible calamity. It is noteworthy also, that no one among the men had sufficient energy to do any hunting after the first heavy snow fall, or ingenuity sufficient to take fish from the lake which was abundantly supplied with them. And yet Clark had no difficulty in killing or wounding a bear every day he went hunting after he had arrived at the camp, and it is well known that fish are easily taken through ice.

The women on the other hand were notably courageous. They not only suffered with heroic fortitude, but when action was necessary they were equal to all occasion. While eight of the ten men and boys of the "forlorn hope" perished, all the women survived. All the women who started with the second relief party came through safely, and of those with the third party only Mrs. Graves died on the way. Of the seventynine members of the original party who were shut in by the snow at Donner Lake, twenty were men, fourteen women, and forty-five children—twenty-five boys and twenty girls, some of whom were almost or quite full grown, while seven were infants in arms. Thirty-four of the seventy-nine perished, of whom twenty-five were males and nine females. All the women and girls showed most remarkable fortitude and endurance, and possibly all would have proved as heroic and self-sacrificing, had there been occasion, as did Margaret Breen, Lovina Murphy, and Tamsen Donner.

The number of people who crossed the plains in 1847 was larger than in any previous year, but the number who came to California was not materially increased.

This may have been due to some extent to reports that the earlier immigrants were at war with the Californians, though the settlement of the boundary dispute in the preceding year, and the steadily improving prospect for the early passage of the Linn land bill drew an increasing number to Oregon. That country now belonged to the United States, and if the Linn bill became law, every actual settler and his wife would be given outright a section of land and a quarter section extra for each child. The law might not be extended to California; indeed, California might never become United States territory, and therefore Oregon offered the stronger attraction.

No record was kept at the time of those who came in that year, nor has any approximately accurate list of them ever been made. A party numbering about fifty persons came down from Oregon, arriving in June; parties with some seventy wagons were met by General Kearny on the Humboldt, and these arrived at Sutter's early in October.

The number who came in the following year was not much if any larger. Captain Joseph B. Chiles, who had been in Washington to testify in the Frémont court-martial, and who had already made two trips across the plains and mountains, brought out a party with forty-eight wagons. Another party with eighteen wagons is mentioned by returning members of the Mormon battalion, and still another small party came from New Orleans by way of Independence. An unknown number, possibly not more than one or two hundred also came by sea in each of these years, though not all remained in the country.

To these must be added the Mormon battalion of three hundred and ten, the Stevenson regiment nine hundred and fifty strong, the artillery company with one hundred and twenty officers and men, and a battalion of dragoons under Major Lawrence P. Graham numbering four hundred and eighty men, counting soldiers, teamsters, mechanics, and servants, which had been last to arrive. Most if not all these remained in the country as permanent inhabitants.

When the Stevenson regiment arrived in March, 1847, its several companies were distributed between the more important points from Sonoma to San Diego. Two under Major Hardie were assigned to San Francisco, three under Lieutenant-Colonel Burton to Santa Barbara, four to Monterey—two of them going later to Los Angeles where Colonel Stevenson was commandant, and one to La Paz in lower California—one to San Diego to replace the Mormon battalion, and one to Sonoma—a small part of it going later to Sutter's fort. The artillery company remained at Monterey, where it was quartered in the custom house, in a blockhouse on the hill overlooking the harbor, and part of it in a new fort which its members had been employed in constructing under the direction of Lieutenant Halleck. The dragoon battalion under Major Graham did not arrive until late in 1848, when it took post at San Diego.

These troops were occupied mainly in expeditions against Indian horse thieves—still troublesome as they long had been—as a constabulary in keeping order and enforcing the laws, and in the general duty of garrison.

The settlers, coming as they nearly all did at this time over the Oregon trail as far as Fort Hall, entered the Sacramento at first by way of Bear River and later by the American, which got its name from their increasing patronage. A few left the Humboldt by the Applegate route to southern Oregon, much to their sorrow, and crossed by way of Lassen's; but all arrived finally at Sutter's. Here they usually rested for a few days, seeking such information as was to be had about the various localities in which they inclined to fix their homes. Nearly all were seeking farms; information about the method of securing them, the various characteristics of the soil, water, climate and possible accessibility to markets, were all matters of importance. Having ascertained what they could, and perhaps traded some portion of their possessions for such fresh supplies as Sutter had to sell, they set off again to make their selections. Some went north along the Sacramento, and found what they were seeking near the great river, or along its several branches; some crossed over to the Napa or Sonoma valleys; a good many went to San José, and a few even to the Salinas Valley, while some halted along the eastern shore of the bay, or in the little valleys opening into it from the hills. Few went to the lower San Joaquin at this time, for the Indians were reported to be troublesome there, and especially fond of stealing horses. Some stopped near Dr. Marsh's place at the base of Mount Diablo, and a few others became neighbors of Captain Weber, who had given over campaigning with his San José militia company, and settled on his rancho near what since the time of the Hudson's Bay Company's trap-



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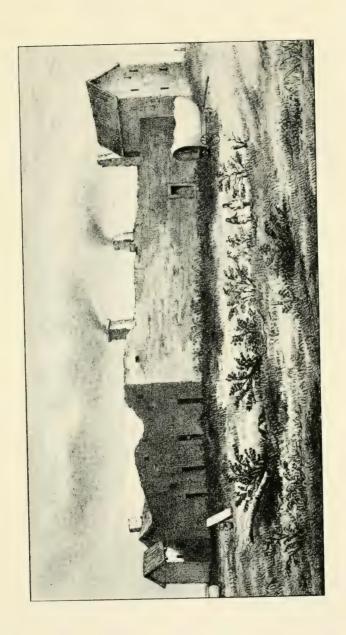
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pers had been known as French Camp, and where he would shortly lay out the town of Stockton. M. G. Vallejo and Dr. Semple, one of whom had surprised the other in his bed on a memorable morning two years earlier, taken him prisoner and carried him away to two months of captivity at Sutter's fort, were business partners and had laid out a town which they called Benicia* on the north bank of Carquinez Strait, which they hoped would rival San Francisco. Quite a number of the settlers stopped here or in its vicinity.

The total white population of California at the end of 1848 was probably not far from 14,000 souls. Of these the larger half, or probably more than 7,500 were native Californians, Mexicans, and Spaniards; the others were Americans, with a few English, Scotch, Irish, Germans, French and Portugese.† The Americans, especially those who had most recently arrived, were for the most part from the new states of the old west. They were frontiersmen who had all their lives been pushing the borders of civilization westward as their fathers had done. They had abundant courage, were industrious in habit and hungry for land. They had enjoyed few opportunities for education, knew little about books and less about law. They could

^{*}They had intended to call it Francisca, one of the names of Mrs. Vallejo, but when Alcalde Bartlett ordered all official correspondence from Yerba Buena to be dated San Francisco, they adopted Benicia, which was another of her names.

[†]In their memorial submitting the new constitution to the senate and the house of representatives and asking for early and favorable action upon it, Senators Gwin and Frémont and Representatives Wright and Gilbert estimate the population of California on January 1, 1849 at 26,000—13,000 Californians, 8,000 Americans, and 5,000 foreigners. This estimate was evidently based on no very definite information, although the rush of gold seekers had begun by that time, and 2,000 people were supposed to have come from Oregon alone, while many other thousands had come from Mexico and South America.

not readily understand how a government which they held in contempt should have been so much more liberal in the distribution of its lands than their own, which they regarded with admiration, had ever been; and now that their own had succeeded, or must soon succeed to the sovereignty, it seemed almost as if it had been robbed by the lavishness of its predecessor if not intentionally and by subterfuge at least stupidly by its lavishness. Was it not preposterous that a single individual, who never did more than ride about the country on horseback, should claim forty or fifty square miles of land, and use it only for pasture, while they could not get a single quarter section on which to plow and plant and reap and gather into barns? Where were the recorded evidences of title of these lordly claimants? Where were their boundary lines?

The Californians were at a disadvantage in that they could not show such evidence of title as their new neighbors were familiar with; nor could they always define the boundaries of their grants with exactness. Their expedientes gave them certain square leagues up to eleven, to be taken within certain limits, which were indicated only by such prominent landmarks—as a hill at one corner, a ravine in the mountain, a clump of trees, a bend in the river. The leagues assigned them had never been surveyed, for surveys up to this time had not been thought necessary. Scarcely one of the larger land owners could designate the boundaries of his grant with any certainty. Many had never seen all the land they owned; so far as they knew a boundary line might be in one place or in another half a mile away.

So it was that the newcomers who were willing to buy of the Mexican grantees, could not always be as certain as desirable that the seller owned what he agreed to convey. If they decided to buy, others less honest, or less inclined to be reasonable, chose what suited them in their neighborhood and fixed their homes on it, without regard to the claims of the owner.

This led to trouble which was increased by the refusal of the military governors to make grants under the Mexican law. Home hunters could not even get land which nobody claimed. The Mexican government was no longer represented in the country, and while some contended that the American governors might, with propriety, exercise the authority which the Mexican governors had possessed, the better opinion was that they had no such power, and ought not to attempt to use it. When the Mexican title was finally extinguished by the treaty of peace, conditions were not improved. Nothing could be done until the laws of the United States were formally extended over the newly acquired territory, and the machinery provided to put them into execution. People from the frontiers did not readily understand this. If their government had acquired the country, why were its laws not in operation there? It was about to give, perhaps was even already giving a whole section of land to each of the settlers in Oregon, with whom they had traveled across the plains and mountains, and had suffered as many hardships. Some felt that they had a higher claim upon their government than these Oregonians could urge, for had they not marched with Frémont and been willing to help win California, if they had not done so?

It was not easy to convince some of these people that their willingness to help win the country, had not amounted to the same thing as actually winning it. Nor was it less difficult to persuade them that the fine stories that had been told them by Hastings and others at Fort Hall, to induce them to come to California, were not in effect promises made by the government itself. They had accepted them as such. The Bear party had so regarded them; why then was not the government more considerate?

A writer in one of the early issues of the "California Star," that for March 27, 1847, not only voiced the general feeling on the land question, but proposed a remedy such as would be likely to suggest itself to people who are sufficiently familiar with self government only to suppose that all the ills flesh is heir to may be cured by legislation. The people "who have recently emigrated to this country," he says, "came here with the well-founded expectation that under the Mexican laws they would be enabled to secure a tract of land immediately on their arrival; but they have been disappointed." How they acquired their wellfounded expectations he does not explain, but he is sure that their troubles could be lessened, or perhaps wholly removed by organizing a legislature and enacting a law. "Let this law provide," he says, "that every man shall be entitled to a certain quantity of government land; and let it further provide that, in order to acquire a legal right to the possession of the same, it

shall only be necessary for the claimant to have his lands recorded and surveyed. A law of this kind, I apprehend would remove at once the chief cause of discontent among the people."

The writer of this letter clearly overlooked the fact that a legislature, in order to enact laws that would have value, must first be legally constituted, and must in addition confine itself to legislating about things within its authority. There was no power in California, or elsewhere in March, 1847, to constitute a legislature with authority to legislate about the lands the settlers were seeking; for the sovereignty of the country was in dispute, and until the question of sovereignty was settled, there was no authority and could be none, to do what was wanted. Even when the sovereignty of the United States should be established it would take time to put the machinery in operation to do it.

The suggestion of this writer is only one of many that were printed, and a vastly greater number that were not. The "Star" was of opinion that settlers should be allowed to select claims on vacant lands, which should be guaranteed to them when the territory should be finally ceded, while the "Californian" complained of the inefficiency of military government which did not solve this and other perplexing problems. But the military government could do nothing without special authority, and this, congress through two whole sessions failed to provide. The governors were as capable men as could have been found to undertake the work assigned them. They were always strictly and conscientiously attentive to duty. They kept constantly in mind the instructions they had received,

particularly that directing them to conciliate the Californians, and make the change from the authority of Mexico to that of the United States as agreeable as possible for them. This the encroachments of the settlers made difficult and next to impossible. Many of them had been despoiled of a large part of their property by Frémont's volunteers. Receipts for what had been taken had generally been given them; but for these they could get no recognition. The governors could not redeem or recognize them, and congress delayed to provide for them. The holders, or many of them, were seriously embarrassed in consequence, and the treatment they received gave them but a poor opinion of the new government, while fresh aggressions by the settlers gave them an equally poor opinion of its people.

One of Governor Mason's earliest acts was to appoint three official surveyors who, it was hoped, would be able, by definitely locating the boundaries of lands already granted, to adjust many of the disputes between the land owners and land hunters. One of these was William B. Ide, erstwhile governor under the Bear flag; the others were Jasper O'Farrell and Jacob R. Snyder. Ide and O'Farrell were assigned to the north side of the bay, for there the newcomers were most numerous, and Snyder to the south side. Almost immediately after taking office Governor Kearny appointed M. G. Vallejo Indian sub-agent for the tribes in and north of the Sonoma and Napa valleys, and Captain Sutter for the tribes on the Sacramento and San Joaquin. Later Mason appointed J. D. Hunter agent for the southern tribes. These sub-

RICHARD BARNES MASON

Colonel of Dragoons and governor of California

He was born on his father's estate in Fairfax county, Virginia; died at Jefferson Barracks, St. Louis, July 25, 1850. He succeeded Kearny as governor on May 31, 1848, and ruled until April 13, 1849. The great event during Mason's administration was the discovery of gold, which was indeed found in January, but was known to few. It was Mason's report to the War department, August 17, 1848, which gave the news to the world and started the great migration. Mason was a soldier and a gentleman and was the very embodiment of the principle of fidelity to the interests of the government.

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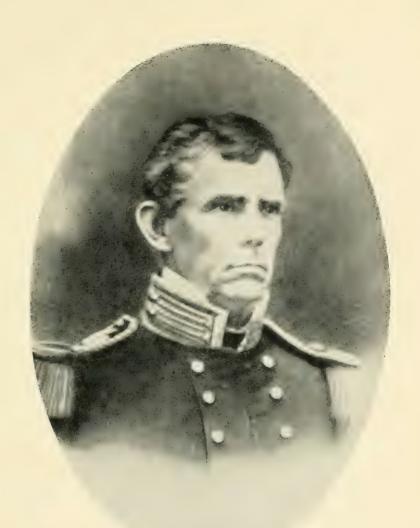
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agents had none of the authority which Indian agents exercised in later times. They could not make treaties or even presents, for no money had been provided for such purpose. They were expected to do no more than inform the tribesmen of the change of flag, assure them that the "great father" at Washington wished to take them under his special care, and by such persuasion as could be used, secure their good will toward both the government and its people. Vallejo and Sutter were particularly well fitted for employment of this kind, on account of their long acquaintance with the Indians; Hunter seems also to have succeeded fairly. The Indians who had formerly belonged to the missions were not overlooked by these officials, though they could do little for or about them, except to gather information as to their numbers and condition, and see to it, as far as possible, that they were properly treated by their employers.

It was chiefly through the alcaldes that the military governors brought their authority and influence to bear upon the people in California. Under the Mexican government the alcalde had been the officer nearest the people, and so he continued under the military governors. He was not only the chief executive and judicial officer in his pueblo, but he was expected to advise, to admonish, to reprehend and to punish. He was indeed to be a father to his people. To him they brought all their grievances of every sort, and if there was no law applicable, he made the law and applied it. Reverend Walter Colton, chaplain of the Congress, who was the first American alcalde appointed, after being two months in office found that his duties

were similar to those of a mayor, while his jurisdiction as a court officer involved "every breach of the peace, every case of crime, every business obligation, every disputed land title, within a space of three hundred miles." He was required by the law to see that the people lived by useful occupations, and to "reprimand idle vagabonds, persons of bad conduct and those who have no known occupation." "There is not," he says, "a judge on any bench in England or the United States, who has power so absolute as that of the alcalde of Monterey." Colton subsequently found that his jurisdiction was not as extensive, nor his power as absolute as he supposed; but his duties were as varied as he represents them to have been.

The Spanish alcaldes had had difficulties enough, but their American successors had far more, because of the mixed population with which they had to deal, and because so many of the later comers were people of notoriously bad character. "Almost every nation," Colton says, "has among the emigrants a representative here of its peculiar habits, virtues and vices. Here is the reckless Californian, the half wild Indian, the roving trapper of the west, the lawless American, the licentious Spaniard, the scolding Englishman, the absconding Frenchman, the luckless Irishman, the plodding German, the adventurous Russian, the discontented Mor-All have come here with the expectation of finding little work and less law. Through this discordant mass, I am expected to maintain order, punish crime, and redress injuries."*

^{*}Three Years in California, p. 19.

The alcaldes were supposed to administer, and be governed by the Mexican law, because the country still belonged to Mexico, although the United States had possession of it. But they had no copy of these laws: there seems to have been none, either written or printed, until Lieutenant Halleck, when secretary of state under Governor Riley, compiled them and got them printed. Meantime Alcalde Boggs at Sonoma adopted the statutes of Missouri, a copy of which he had brought with him, as his guide, and other alcaldes, who had no volumes of statutes, and knew no law, relied upon equity. Most of them were not as resourceful as Colton, nor were they as careful to respect the limits of authority which had been fixed for them. A few never realized that the laws and customs with which they had been familiar, were not applicable to their present surroundings, and at times almost recklessly exceeded their authority. They had no jurisdiction of capital offenses; these were dealt with by court-martial, but William Blackburn who was alcalde at Santa Cruz, did not hesitate to try a man for murdering his wife, and to have him shot almost as soon as convicted. The prisoner, Pedro Gomez, was tried on Saturday, August 14, 1847, and shot on the Monday following. This alcalde also awarded the care of two orphan daughters of the murderer and his victim to two of their acquaintances, who were instructed "to raise them until twentyone years of age, unless sooner married," and "give each a good education and three cows and calves on marriage or coming of age."

The alcalde at San Diego tried an Indian for murder, and according to the old Mexican method, all the tes-

timony in the case was written out and sent to Governor Mason; but the governor refused to consider it, on the grounds that the accused had not in any sense had a legal trial. He had not been in court when the testimony was taken, as he was entitled to be, and the magistrate was accordingly directed to summon a jury and give him such a trial as he would be given in an American court. The governor also ordered that all civil cases, where the amount involved exceeded one hundred dollars, should be tried by juries of not less than six persons. In criminal cases, where the defendant was found guilty, he directed that the record should be submitted to him for approval before sentence was executed.

While it was necessary for the governors to appoint alcaldes at first, it was ordered that they should be chosen by election as soon as elections could be conveniently held. Still the governors retained and exercised the right to remove unfit men, in case any happened to be chosen. John H. Nash, who was to have been chief justice, if the Bear flag party had succeeded in establishing the California republic, was alcalde at Sonoma, where he assumed as much authority as he could have exercised if he had been the highest legal authority in the world. He was removed by General Kearny, but refused to vacate his office, and Lieutenant Sherman was sent to dispossess him and install ex-Governor Boggs of Missouri who had come to California in 1846.

The governors also sometimes took occasion to give direct orders to alcaldes as to the disposition of cases before them. In one instance Kearny ordered the alcalde of San José to dismiss a suit brought to recover a wager on a horse race. In another he directed the alcalde at Sonoma to quash certain proceedings instituted by the Catholic church to recover a house in the possession of Victor Prudon. In November, 1847, Father Real of Santa Clara was brought before the alcalde of San José for a breach of contract, and pleaded that as an ecclesiastic he was not amenable to the judgment of a civil court; but Mason held that no ecclesiastical privilege could exempt him from carrying out a civil contract made with a citizen.

Mason set his face resolutely against everything in the nature of military tyranny. When Colonel Stevenson, while in command at Los Angeles, assumed the right of reviewing the decisions of the alcaldes in his district and undertook to forbid that a sentence should be enforced, Mason directed him to recall his instructions, allow the law to take its course, and refrain from further interference. He also forbade Captain Lippitt at Santa Barbara, from interfering with the alcalde at that place; and later when Lippitt, in defiance of his instructions, tried to arrest the alcalde and have him put in the guardhouse, Mason again reproved him and instructed him to meddle no further in such matters.

Captain Henry Naglee, while in service in southern California in March, 1848, took several Indian prisoners accused of an atrocious crime, and shot two of them without a hearing. When Mason was informed of what had been done, he disavowed the act, as not sanctioned by the laws of war, and with the humane principles of the government of the United States, and ordered Naglee arrested; but peace was declared and the

regiment mustered out of service before trial could be had, and nothing further was done about the matter.

In addition to their other duties the alcaldes were authorized to grant lots in towns, as their Mexican predecessors had done. Some of them also ventured to solemnize marriages, and grant divorces, and this led to a vast amount of trouble, as under Mexican law no marriage was valid unless performed by a priest, and no divorce could be granted except by still higher church authority.

Under the Mexican laws four square leagues of land were assigned to each pueblo. These were divided into building lots, on which the grantees were to make their homes, larger tracts which they were to cultivate as fields, and a common on which they were to pasture their cattle. The lots were assigned or granted by the alcaldes, who gave to each no more than one building lot and one field. Their successors, the American alcaldes, made grants of only single lots for a time, but finally when Alcalde Bartlett at San Francisco, found that speculators were procuring lots in considerable numbers through dummy applicants, whom they furnished with the small amount of money required to secure a grant, and then took transfer from them, that system was abandoned. Lots were sold in such numbers as applicants demanded, and later by auction to the highest bidder, the money going into a general fund for pueblo expenses.

San Francisco grew rapidly after the American occupation. Its population was perhaps more than doubled within a month after the flag was raised, by the arrival of the Mormon colony. As the overland

trains arrived later other people came to it, and some came by sea. Its business improved so rapidly that the need of better means of access to deep water began to be urgent. On February 15, 1847, a public meeting of citizens was held in the plaza, and a petition was prepared and signed, asking Governor Kearny to give the town the tide land lying in front of it. Although his authority to do so was doubtful, he complied with this request on March 10th, by releasing to it all the interest of the United States and of the territory of California, in all overflowed lands between Clark's Point, where the usual landing place at that time was, and the Rincon, excepting such lots as might be witheld for government use. This grant was subsequently confirmed by the state for a period of ninety-nine years.

Thus all the mud flats of that day lying between deep water and the shore line just east of Montgomery Street, were made available for city uses. Jasper O'Farrell was employed to survey and plat it into streets and lots, and the lots were sold at auction. Piers were built along the principal streets; in time the streets and lots were filled in, and these flats are now covered by the business part of San Francisco.

During 1847 some apprehension was felt from time to time, of new troubles in the south. The Sonorans, of whom there were a considerable number in and about Los Angeles, where they had been active fomenters of discord in earlier years, were suspected to be planning a new uprising, and Governor Mason issued a proclamation forbidding any more people from coming from that province, except on official business, and then

under flag of truce. In February, 1848, General José Castro came back to California and in July ex-Governor Pico arrived. Both, however, disavowed any intention of resisting the American occupation; on the contrary they gave assurance that they would do whatever they could to promote harmony and peace between Americans and Californians.

On August 6, 1848, news came that the treaty of Guadalupe Hidalgo, signed on February 2d, had been formally ratified by both governments, and California had become American territory. Meantime another event had happened that made a still greater change in its history.

CHAPTER IV. THE DISCOVERY OF GOLD



HAT the early Spaniards had sought with such fierce eagerness three hundred years earlier, and failed to find; what they had toiled for by day and dreamed of by night; what they had schemed, and planned, and shed men's blood for; the lode star which they had followed in their frail ships over stormy seas, or with their armies through marshy fens, malarial forests or across burning deserts; the main object of their most desperate exploits—was found at last, though not as they had hoped. If they had thought of seeking gold in waste places, it was only in the hope of finding it heaped up by those ants, which Sir John Mandeville had described as "larger than foxes but not quite as big as dogs." they had ever sought it in the sandy river courses, or in the rocky fastnesses of the hills, it was only in places where there were Indians who might be compelled to dig it for them; they had no intention of digging it for themselves. Their aim had been to find it after it had been won by the labor of others from the secret places where nature had hidden it, and changed by the alchemy of toil into shapes convenient to be pursed. They sought to win it by the sword, not the shovel. They planned to tear it from the glittering domes of those "cities roofed with gold," of which Toscanelli had written to Columbus, or from the walls of temples hung with golden suns, or studded with the images of heathen gods entwined with serpents and all of beaten gold, such as Cortés had found in Mexico, or Pizzaro in Peru. Long and toilsomely they had sought for the cavern homes of Califa and her Amazons, which their fancies had pictured as resplendent with jewels set in thick plates of the richest of all metals—the only metal she knew—but had found no sign of them. Later and more enlightened generations had ceased to dream of Amazonian warriors and their fabled caverns, or to expect temples and palaces where they found only the most indolent and degraded savages; yet they did not cease to look about them for signs of the precious metal. Valiant soldiers and patient priests who traveled far to extend the dominions of their king, or carry hope of salvation to hitherto unknown heathen tribes, did not fail to note in their diaries every indication they saw of the existence of the hoped-for wealth; but rarely, if ever, was any effort made to develop it when found.

In 1842 two herdsmen, while watering their horses in San Francisquito Creek, not far from San Fernando Mission, pulled up some wild onions that were growing on its banks, and in the earth about their roots found some particles of gold. News of what they had discovered soon spread, and in a few weeks a number of Mexicans and Indians were engaged in washing and winnowing the gold bearing sand from the creek bottom; some of them finding gold in paying quantity. Most of the Sonorans in and about Los Angeles had some knowledge of placer mining, and they now began to prospect the country from the Santa Clara River to San Bernardino, finding in many places very promising indications, but none so good as at the place where the first discovery was made. During 1842 and 1843 about two thousand ounces had been taken from the various creeks near San Fernando, some of which Abel Stearns had sent to the mint at Philadelphia, and the remainder had, for the most part, found its way to the United

States. In 1844 Manuel Castañares reported this gold discovery to the Mexican government, but the report attracted only passing notice.

The cruelties practised by the early encomienderos in Hispaniola on the Indians employed in their mines, not only awakened the sympathies of Córdova, Las Casas, and other missionaries of their time, but had provoked their sturdy opposition to the employment in which the wretched creatures were engaged; and after that time mining was discouraged by the friars everywhere. It was a kind of labor not particularly suited to their neophytes, or to mission life, and their influence was generally sufficient to repress and restrain mining enterprises wherever the mission system existed. But the mission influence was now at an end in California, and a sturdier race than the Spaniards had come to explore its river beds and mountain treasure houses, and turn into the channels of trade, by the alchemy of its unrestrained enterprise, greater wealth than had ever been hidden in Bactrian rivers or Arabian sands, in Caucasus or Iberia, in Mexico, Peru or Brazil. Ormus and Ind with their showers of gold barbaric, the muddy Pactolus, the mysterious Ophir, Colchis, and Golconda should for a time at least, almost cease to be remembered for their real or fabled wealth, while California should replace them in men's minds as the accepted symbol of uncoined and unlimited riches.

It did more than this, for it changed the conditions of life throughout the civilized world. It stimulated enterprise, diversified and increased employments, awakened new thoughts in men's minds. It gave rise to one of the greatest migrations in the history of the human family, hastened the development of the whole coast region, reopened trade with the Orient, and gave new life to the commerce of the Pacific.

A few shining bits of yellow metal lying in the sand over which water was flowing through a recently opened ditch, attracted the attention of a plodding workman on the morning of January 24, 1848. The ditch was to be the tail race for a saw mill, when water turned into it from above should widen and deepen it sufficiently: the workman was James W. Marshall. foreman of a small party of laborers who had been for some weeks employed in building the mill for Captain Sutter; and the shining particles were virgin gold. Their existence in that locality had never before been suspected. The finder knew nothing about gold in its natural state except that it was yellow, heavy and malleable, while other substances that much resembled it were lighter and brittle. He carefully fished up a few of the larger particles, and eagerly noted that they were as heavy as small grains of shot; he pounded one of them between two stones and saw with satisfaction that it did not crumble and was easily flattened. He felt sure it was gold, and like the man in the parable who found a treasure hidden in a field, he began to plan how he might best secure all of it for himself. For the present he would say nothing.

Several months earlier Sutter, whose enterprises extended to all possible activities, had planned to build a flour mill near his fort. The *Lexington*, which had brought out the artillery company in 1847, had also brought machinery for such a mill. There was one at San Francisco, and Smith's mill at Bodega had been

running for several years; but these were too far away to be of service to him. The immigrants now coming in ever increasing numbers, required fresh supplies of flour upon their arrival, and although he was growing more than 20,000 bushels of wheat each year, he could not supply them, except with the coarse, unbolted stuff ground by his Indians with their metates. He must have a mill, and to build it he required lumber, which was also coming to be in considerable demand for other purposes.

The flour mill must be near the fort, but the saw mill would need to be located farther up in the mountains where suitable timber was more abundant, with water power near it; and where lumber could be easily sent down the river as it was cut. Marshall had found such a place in the preceding summer on the south fork of the American River, at a place afterward called Coloma, and had arranged with Sutter to build and run the mill as his partner, Sutter furnishing the capital, labor and machinery, and he superintending the work. Marshall was a native of New Jersey, where he had been a carriage maker. He had crossed the plains to Oregon in 1844, with the first settlers who located in the Puget Sound region, and in the following year came to California, where he worked for Sutter for a He may have taken part in the Bear flag enterprise, and certainly went with Frémont's expedition to Los Angeles. He was a fairly good workman, competent enough to manage matters with which he was familiar, but about things outside the limited range in which he lived and moved, he had strange views and was wholly impractical.

Though reasonably confident that what he had found was gold, the possible value of the discovery seems not to have impressed him at first. He had with him at the mill, Peter L. Wimmer, another carpenter, and his wife who did the cooking for the camp, eight or ten other white men-most of whom had been members of the Mormon battalion—and ten or a dozen Indians from the fort. These were at work on the mill, the dam, the race, or in the woods cutting lumber. He said nothing to any of these during the day about his discovery, but in the evening casually remarked that he believed he had found a gold mine. Then he was sorry he had said anything, for in his dull mind his first impression had been slowly growing that he had best say nothing of what he had found until he could make sure of securing it for himself. He was half relieved and half annoyed, therefore, when some one said he guessed there was no such luck in store for him; and the others laughed.

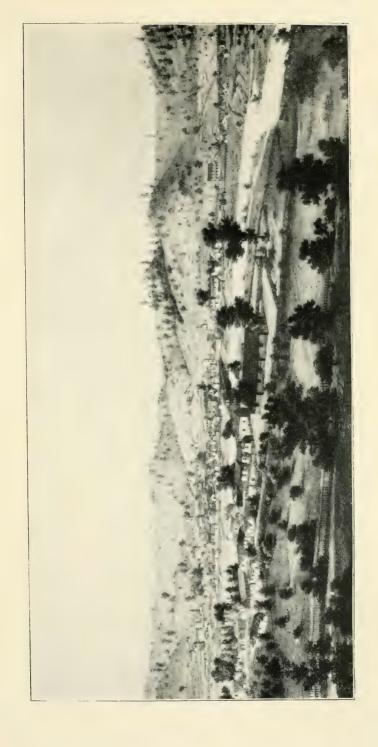
That night the water was again turned into the tail race, and allowed to run in full volume, still further widening and deepening it; and in the morning Marshall made another inspection, finding more nuggets of the yellow metal. Mrs. Wimmer is reported to have made a curious test of these by boiling them in one of her kettles, without dissolving them, or producing any other effect except to make them brighter. Other members of the party gradually became interested; the race was more thoroughly examined, and some three or four ounces of gold collected. Marshall watched the increasing interest of the men in the search with curiosity at first, then with annoyance, and finally with alarm. He begged them to say nothing of what

COLOMA IN 1857

It was here, while building a mill for John A. Sutter, that Marshall discovered gold on January 24, 1848.

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they were finding, but they were becoming so much interested, and even excited, that he could not feel sure they would not do so.

Fearful that news of his discovery might become public before he had done what might be needed to secure advantage from it, he took horse on the morning of January 28th, and hurried to Sutter's office at the fort. Arrived there he acted so strangely as to alarm the captain, who, accustomed as he was to dealing with many kinds of curious people, is said to have felt some uneasiness at his partner's strange conduct and appearance. He was covered with mud, showing that he had been riding hard; was much excited, and demanded an instant and private interview, although no one else was present. When satisfied of this and assured that he was not likely to be interrupted, he announced that he had discovered gold; and in proof of it produced an ounce or more of nuggets, which he poured down on the captain's table.

Although incredulous at first, Sutter soon began to be convinced. The little yellow grains were too heavy to be anything else than gold. Acids were convenient among his stock of drugs, and these were applied. The little grains stood the test. They were weighed in air and in water; their weight was compared with that of certain silver coins; they were subjected to all the tests described in an encyclopedia which Sutter had among other books, and proved true to every one.

Then Sutter became anxious, though for another reason than that which had impressed Marshall. He had much at risk in his many enterprises, all or part of which might be lost, if his laborers should desert him;

and they were likely to do so if they should learn that gold could be as easily gathered from the banks of the south fork as Marshall's story indicated. His two half built mills would not be completed, his tannery and his stores would be deserted, his boats would be neglected in the river, and his herds of cattle, horses, and sheep on the ranges. He appears to have owned at this time some 12,000 cattle, 2,000 horses and mules, 10,000 or 15,000 sheep and 1,000 hogs. He had grown during the preceding year more than 20,000 bushels of wheat, and had several thousand hides in process of tanning, or waiting to be tanned. Much of this vast property would be lost—as it subsequently was lost—if his white laborers should leave him, and he was compelled to depend on his Indians alone.*

Sutter immediately prepared to set off for the mill, to see what might be done to prevent news of the discovery from becoming known, and secure some sort of claim—just what it would be he did not then know—for himself and partner to the ground on which the valuable mineral had been found. He planned to start on the following morning, but Marshall would not wait for him. Bedraggled and cold as he was, he took the road toward the mill, almost without waiting to eat. He was now so much excited, and his mind so confused with dreams and speculations about great wealth, that he could never afterward remember the exact date on which his discovery was made. It was, he thought, on the 18th or 19th—or perhaps the 20th—of January,

^{*}His losses are not to be measured by the value at that time of the property that went to waste for want of laborers to care for it, for less than a year later lumber was selling at from \$1 to \$1.50 per square foot, and flour at \$400 per barrel at the mines, while leather brought equally extravagant prices.

and for a number of years the 19th—a fair average at least of these dates—was accepted as the true one. Then it was found that Henry W. Bigler, one of the Mormons, had regularly kept a diary at the mill, in which were these entries, evidently made at the time of the discovery:

"Monday 24th: This day some kind of mettle was found in the tailrace that that looks like goald first discovered by James Martial the Boss of the Mill.

"Sunday 30th: Clear and has been all the last week our metal had been tride and prooves to be goald it is thought to be rich we have pict up more than a hundred dollars worth last week."*

Sutter arrived at the mill on the 29th and was soon convinced that all that Marshall had told him was true. The water had been allowed to run through the race the night before he arrived, as usual, and he and the others soon picked enough nuggets out of its bottom to make himself a heavy gold ring, on the inside of which he had engraved: "The first gold discovered in January 1848." Further examinations made during the two succeeding days, showed that gold was as plentiful at other points along the stream as near the mill. And now the question was: How could an exclusive right to mine it be secured? The American governor had refused to attempt to make grants, as the Mexican governors had formerly made them; the sovereignty of

^{*}For a facsimile of these entries, see article on the gold discovery by John S. Hittell. *The Century*, February, 1891, p. 529. They fix the date of the discovery conclusively, although the statement that the weather had been clear all the week does not agree with the generally accepted story that Marshall's trip to the fort on the 28th was made while it was raining.

the country was still in doubt,* and there was no other authority to be appealed to. So Sutter resorted to the plan Meares and Kendrick had adopted at Nootka more than half a century earlier—he made an agreement with the Indians to give him and Marshall the exclusive use of the lands claimed by them—a tract some ten or twelve miles square—for a period of three years. Then pledging all his employees to say nothing about what they had found, for at least six weeks, he returned to the fort.

The men at the saw mill kept their pledge for five weeks or thereabouts, although Bilger, who was occasionally sent to shoot deer and ducks in order to give some variety to Mrs. Wimmer's bill of fare—which consisted ordinarily of salt salmon and boiled wheat—took opportunity to prospect the river banks as he hunted, and found gold everywhere he looked for it. Sutter himself, in over-anxiety to make himself more secure, first let the secret get abroad. Hoping to strengthen the claim he had obtained from the Indians, he dispatched Charles Bennett, one of his assistants, to Monterey to induce Mason to make a special grant, or at least to give him and his partner exclusive milling and mining privileges. Bennett was enjoined to say nothing about gold, but to intimate that indications of lead and silver had been found. He, however, took with him some of the glittering particles, and the temptation to talk about them, and even exhibit them in places where he thought no harm would follow, was too great for him to withstand. At Benicia some one spoke of

^{*}The treaty of Guadalupe Hidalgo was not signed until February 2d.

coal at Mount Diablo, and Bennett could not keep from saying that he knew of something better on the American River. At San Francisco he met Isaac Humphrey, who had done some gold mining in Georgia, and showed him his specimens in order to secure an opinion of their value from an expert. At Monterey Mason refused to make any grants, and Bennett in his disappointment, made other disclosures.

In February it became necessary to send supplies to Marshall and his workmen, and a teamster who was devoted to Sutter's interests—when sober—was sent with them. At the mill he heard of what had been found, and being a little incredulous, was given a few particles to convince him. These, on his return to New Helvetia, he tendered at a store which Smith and Brannan had some time previously established there, and asked for whiskey. Smith, the partner in charge, though somewhat distrustful, made the exchange, and then applied to Sutter for further information; and so the secret gradually got abroad.

The men at the saw mill grew more interested as time passed. They employed every leisure daylight hour in hunting for gold in new places. Bigler, the hunter, made a new find every time he went to look for deer or ducks. Game was so plentiful that he easily got as much as he wanted, and then devoted a few hours to hunting of a more profitable kind, without anybody complaining of his staying too long. A pair of rude scales, made of wood and twine, were early brought into use. On these the dust gathered on each excursion would be balanced against silver coins whose weights were known; and so the value of each little

heap was guessed with some accuracy. It rarely happened that a man did not find nuggets enough to balance a twenty-five cent piece—supposed to be worth \$4; half an ounce, or even an ounce worth \$16, was frequently found. Marshall and one companion are said to have collected a full pint of the precious stuff in a single day, on one occasion.

When the six weeks, during which they had pledged themselves to silence, had nearly passed, the Mormons began to write to their comrades of the battalion who were still in California, and by the middle of March several of them had appeared at the mill. These after prospecting along the stream below the tail race, finally located on an island in a bend of the river, which although not promising very well at first, afterward became famous as Mormon Island. For a time these Mormons supposed themselves, and were supposed by others, to be the first to devote themselves wholly to mining, though it was later learned that Isaac Humphrey, to whom Bennett had applied in San Francisco for an expert opinion on the dust he carried, had soon afterward established himself, with an improvised rocker, in a quiet nook on the south fork of the American.

The story was now out. It was no longer possible that the secret could be kept. As a spark falling upon tinder struggles into a flickering blaze that a breath may extinguish, in time becomes a roaring flame that envelops forests, or lays cities in ashes, so this burning bit of information flew over the hills and valleys of California in the early months of 1848; to Reading's rancho on the upper Sacramento, to Napa and Sonoma, to Benicia and San Francisco, and thence spreading

away through the valleys and across the hills to Los Angeles and San Diego. Close on the heels of the tale told by the half-drunken teamster, and repeated by the careless vaquero, the listless boatman or the rich ranchero, owner of many leagues of land and more thousands of cattle, came proof of its truth. Bags of dust were sent first to Sutter's fort and Smith and Brannan's store near by, and later to San Francisco to buy picks and shovels and pans, blankets and boots, bacon and beef and flour, and everything else of which miners and prospectors stood in need. Traders and shop keepers looked at the yellow particles doubtingly at first, and after getting such information as they could as to their probable value, finally concluded to accept them at the conservative value of \$8 per ounce.

The editor of "The California Star," with a view to ascertain the truth about the reputed mines, or perhaps in the hope of being able to prove them nothing but a sham, made a trip to the American River and vicinity in April, and in his issue of May 6th, made an exceedingly flippant and discouraging report. He had evidently not seen what he did not wish to see, or perhaps had determined not to see; for he had in prospect a very handsome bit of business, strictly in the line of his profession, that he was very anxious to realize on. On April 1st "The Star" had issued a special edition, containing an article six columns in length written by Dr. Victor I. Fourgeaud, setting forth the attractions and advantages of California, but mentioning only in the most incidental way that some particles of gold had been found in the mountain streams. This article had been written at the suggestion of the merchants and property owners in and about San Francisco, who bought two thousand copies of the paper, and sent them east by special messenger to be distributed through the older states. They had also arranged for another special edition, to be issued on June 1st, to be distributed in a similar way.*

Undoubtedly editor Kemble's anxiety to realize on this second undertaking made him anxious that nothing should interfere with it. He was too confident that he had wealth within his grasp from his newspaper business, to care to have it interrupted by anything like gold mining.

Resolutely during May the editor strove to stem the rising tide. "Fleets of launches left this place on Sunday and Monday," he says, "closely stowed with human beings. * * * Was there ever anything so superlatively silly?" And again in the issue for May 20th, "All sham, a superb take in as was ever got up to guzzle the gullable." But it was all in vain. Some time during the month Elder Brannan returned from a visit to his store at New Helvetia, and went up the street like a wild man, waving his hat in one hand, while in the other he held up a small bottle of gold dust, shouting all the while: "Gold! gold! gold! from the American River."

Such excitement as is seen only in mining regions speedily followed; the editor could no longer oppose the inevitable. Two weeks after his discouraging report was published, his contemporary, "The Californian,"

^{*}This was the beginning of a system of intelligent and persistent advertising, in which the people of California have ever since excelled all others, and which has done more than anything else except their own enterprise, to hasten the development of the state.

was compelled to suspend for lack of printers and pressmen, and on June 14th "The Star" temporarily went out of business for the same reason.

Buckskin bags, bottles and tin cans filled with the precious particles came more and more regularly to the merchants with orders for goods. With them came reports that lucky prospectors were finding anywhere from an ounce to ten or twelve ounces a day each, not in one place only, but in many. People of all classes suddenly became dissatisfied with their plodding and unremunerative occupations. The merchant left his store, the smith his anvil, the carpenter his bench, the doctor his patients, the lawyer his clients, the preacher his congregation; soldiers and sailors deserted, in spite of all the efforts of their officers to restrain them. Farmers left their unfenced fields, whitening with the harvest, to the mercy of troops of cattle, horses and other animals. One farmer is said to have left five hundred acres of wheat wholly unprotected. Henry Bee, the alguacil at San José, had ten Indian prisoners in his keeping, two of whom were charged with murder. He sought to turn them over to the alcalde, but found that that officer had departed for the mines. There was no one else to whom he could legally deliver them, so he resolved to take them with him to the diggings, where they are reported to have worked for him contentedly until he became too rich to care further for their services; then so far as the record shows, they took occasion to exchange their prospects of hanging or other punishment, for a sure opportunity to get rich.

By the end of May it was estimated that not less than one hundred and fifty people, out of a total

population of eight hundred and ten, as shown by the latest count, had left San Francisco. These had gone as they could, and as other people were going. Some had crossed to Sausalito or San Rafael, gone thence to Sonoma and so on to New Helvetia; some went around the head of the bay, and crossed the hills through Livermore Valley, while others went by the way of Carquinez Strait and Benicia. One man who crossed the ferry at this place in April, and was the only passenger, found two hundred wagons waiting their turn to be carried over when he returned only two weeks later. A few who lacked the means to buy horses-which could still be had for \$15 each—went on foot; some went in wagons although there were no roads as yet, or bridges by which streams could be crossed; but most went on horseback. Some went by the river in boats, when they could obtain them. Row boats which could have been bought in April for \$50 each, by the end of May were hard to get for \$400 or even \$500. Prices of every sort of goods, and of all implements such as miners use, advanced enormously. A shovel ordinarily worth a dollar, commanded ten. Picks, crow-bars, pans and knives advanced in proportion. Prices of flour and bacon doubled, trebled and quadrupled. Blankets, long boots, and coarse clothing, sold at higher prices than the finest quality of goods, and it was soon difficult to obtain them.

The first news of the discovery reached Monterey on May 29th. According to Colton few believed it except the sibyls who said "the moon had for several nights appeared not more than a cable length from the earth; that a white raven had been seen playing with an infant; and that an owl had rung the church bells." On June 5th more definite information was received and on the 6th Colton dispatched a messenger to the American fork to ascertain, as he says, whether the reported gold was "a tangible reality on the earth or a fanciful treasure at the base of some rainbow."

On June 12th a straggler wandered into the town, with a nugget weighing an ounce. "The young dashed the dirt from their eyes," says Colton, and the old from their spectacles. One brought a spy glass, another an iron ladle; some wanted to melt it, others to hammer it; and a few were satisfied with smelling it. All were full of tests; and many who could not be gratified in making their experiments, declared it a humbug." A lady offered a heavy gold ring with which to compare it, and a man placed it on the gold knob of his cane, challenging the sharpest eye to detect the difference.

Many of the earlier gold hunters were easily satisfied and having made as much as they thought at the time would be sufficient for their purposes returned to their old haunts, bringing with them the best of all evidence of their success. A man who had worked for Colton as his body servant, after a few weeks' absence returned with over \$2,000. A rough-looking man who did not appear to have enough about him to buy a loaf of bread, came to Monterey with a sack on his shoulder in which he had dust to the value of \$15,000. Four citizens of Monterey who had employed some Indians on the Feather River, collected \$76,844 in seven weeks and three days; a man who had worked sixty-four days on the Yuba brought back \$5,356; another

resident of Monterey who had worked fifty-seven days on the north fork of the American, brought back \$4,534; a boy of fourteen who had worked fifty-four days on the Mokelumne had \$3,467. A woman who had worked with pan and shovel in the dry diggings forty-six days cleaned up \$2,125.

Returns of this kind speedily upset all social and domestic arrangements. The master was compelled to be his own servant, while the servant became his own lord. The millionaire was compelled to groom his own horse and roll his own wheelbarrow, while the hidalgo in whose veins flowed the blood of all the Cortés had to clean his own boots, and his lady swept her own apartments and did her own cooking. Colonel Mason, Lieutenant Lanman of the navy, and Alcalde Colton were messing together in a very comfortable way, before the gold reports disturbed the serenity of their surroundings. Suddenly every one of their servants left them, and when they employed new ones they as suddenly departed. Even the colored man who blacked their boots caught the fever. So the governor, the alcalde, and the lieutenant were obliged to resort to the kitchen where they baked their own bread, broiled their own bacon, and roasted and pounded their own coffee.

By the middle of September the alcalde had resolved to make a trip to the mines, and get information about them at first hand. Captain Marcy, whose father had recently been secretary of war, Mr. Botts the naval store keeper, and Mr. Wilkinson, son of a recent minister to Russia, went with him. As they neared the mines they encountered a party of returning gold hunters, of whom Colton says, "A more forlorn looking group never knocked at the gate of a pauper asylum. Most of them were dismounted, with rags bound about their blistered feet, and with clubs in their hands with which they were laboriously forcing their skeleton animals to advance." They inquired for bread and meat, and although Colton's party had but little to give them, they shared with them what they had, supposing they were giving it in charity. But this supposition was dispelled when one of the party poured down a pound or two of nuggets in payment. Colton afterward learned that these ragged travelers had with them over a hundred thousand dollars in freshly mined dust.

Arrived at the mines,* the eager alcalde borrowed a pick and in his first five minute essay at mining secured enough to make a seal ring. Seventy persons were at work in a small ravine, from which they were securing an average of an ounce each per day. A sailor whom the alcalde had known while chaplain on the Savannah, had found a single nugget weighing three ounces, which he had lost, and Colton helped him find it again. A Sonoran who had strayed into the camp, after picking away at what seemed to be a hard and uninviting spot on the side of a cañon, found a pocket from which he took nearly two pounds of nuggets, all shaped like watermelon seeds. The next day he came upon another near by which held nearly a pound and a half. A Welshman whom the alcalde had only a little time before fined for being drunk and disturbing the quiet

^{*}His first stop was apparently on the Stanislaus though he nowhere says so. He however, tells of crossing a steep ridge to the camp of the Sonorans which was on the Tuolumne.

of Monterey, met him with a hearty greeting, and while assuring him that he treasured no hard feeling on account of that incident, suddenly fell to digging and soon turned up a nugget weighing an ounce or more. "There," said he, "Señor Alcalde, accept that; and when you reach home, where I hope you will find all well, have a bracelet made of it for your good lady." A German picked a piece weighing three ounces from the ground in front of Colton's tent, and later in the same day Colton himself took about half an ounce from a crevice in a rock. A little girl playing in a ravine near her mother's tent picked up a curious stone as she thought; it proved to be nearly pure gold and weighed between six and seven pounds. A much larger lump, weighing twenty-three pounds was found not far away. A little Dutchman, who had some experience in mining, and had taken as a partner an Irishman with abundant muscle, invited the alcalde to come and see them work in a promising spot of which the other miners knew nothing. They frequently filled his pan with gravel from the bottom of the pit in which they were working in water half-way up to their waists; on washing this he usually got from \$15 to \$20 to the pan. They took about \$1,000 from that hole during the day. Working alone, about three miles from his camp, he found a woman he had known at San José, washing gravel in a wooden bowl. She told him she had been there about three weeks and had averaged an ounce a day.

Crossing the ridge he next visited the camp of the Sonorans, some hundreds of whom had come into the country in spite of Mason's prohibitive order. Indeed

he no longer had soldiers enough to keep them out; he could keep only enough for guard duty by a system of liberal furloughs, by which his men were able to spend a reasonable share of their time, in turn, at the mines. These Sonorans were experienced miners, and were getting handsome returns for their work, all or nearly all of which they regularly lost at the end of every day, at the gaming tables. These were numerous, and on some of them were piled as much as a hundred pounds of gold. The gamblers appeared to be getting the entire product of the mines, except what the miners required for food.

At this time flour was selling at \$400 per barrel, sugar \$4 per pound, and a very poor grade of coffee at the same rate. Colton saw flour sold in small lots at \$2 per pound, and whisky at \$20 a quart. There had been a dearth of the latter for some days, and when a new supply arrived, it was sought for by anxious purchasers, who received it in their tincups, their sauce pans, and coffee pots, or whatsoever other receptacle they could provide.

Just before leaving the mines at the end of his six weeks' visit, the alcalde encountered an old man sitting listlessly on a stone in the shade of an oak tree. His gray hair showing through his battered cap excited sympathy. He had not, he said, got so much as an ounce for all the work he had done, and was about to try some new locality. "Why not turn over that stone on which you are sitting?" suggested the alcalde. Accepting the suggestion, though remarking that he did so because he was asked to do it, he arose and with some effort turned it over. Beneath it was a layer of

moss, and under that another rock, in the crevices of which were a lot of nuggets, "shaped like pumpkin seeds, bright as if fresh from the mint, and weighing nearly half a pound." On the way home his party overtook another old man and his grandson who had been in the mines, where they had collected some twenty pounds of nuggets, of which they had been robbed and were now as poor as when they began. A subscription was later taken up for them at Stockton, Captain Weber and Dr. Isabell contributing a pound of dust each, and others as much as they could spare.

During 1848 the miners were rarely disturbed by thieves, and while murders were sometimes committed, they were not as frequent as in succeeding years. In most of the camps the newly mined gold was kept in bottles, cans, stew pans, bags or boxes, without much attempt at concealment, and it was rarely disturbed. Some atrocious crimes were committed, but the cowardly ruffians who were guilty of them usually preferred to wait for victims in lonely places while returning from the mines, or to plunder them after reaching their homes. Some of these were summarily punished. Three white men at San José, accused of robbery, were convicted and hanged late in December. William Reed and his family, consisting of his wife and his servants and attendants, ten persons in all, were murdered at Mission San Miguel, their bodies piled in a heap in one of the rooms and the house robbed, by a party of five men, most or all of whom were discharged soldiers. The murderers were pursued and overtaken near the sea shore, where a sharp battle followed, during which one of the attacking party was shot dead by one of the murderers, who had been mortally wounded. One of the remaining outlaws jumped into the ocean and was drowned or escaped; the other three were taken alive. Governor Mason authorized the alcalde to execute these murderers, if found guilty, without referring the case to him in the usual way, and as their guilt was fully proven, they were immediately hanged.

Governor Mason appealed to the authorities in Washington to provide more abundant means to repress crime and punish criminals. He had no legal power, as he thought, to execute sentence of death, but when necessity compelled good citizens to take the law into their own hands, he determined not to interfere further than to restrain the people so far as to insure fair trials. But congress was slow to act, in fact did nothing and when the transported thieves and cut-throats of Europe, and the miscellaneous outcasts from Central and South American countries and Australia began to arrive, crime became more rampant, and criminals for a time seemed likely to control the country.

During the summer all the rivers between the Tuolumne—and perhaps the Merced—on the south, and the Feather on the north, were prospected far up toward their sources, and on all satisfactory returns were procured for the effort expended. Some gold hunters worked alone and some in parties. Captain Sutter took a hundred Indians and about fifty Kanakas to the region where Marshall made his discovery, or above, where he kept them at work with fair success. Other people employed Indians successfully. Still others found it profitable to secretly follow the Indians who showed no inclination to work for others, hoping

to find in that way, something better than they would otherwise discover. I. H. Carson had been directed by an Indian, to a spot where he and his companions took out an average of eighteen ounces each per day, for ten successive days. Antonio Francisco Coronel. of Los Angeles, met some savages soon after he arrived on the Stanislaus, who wanted to buy goods and offered coarse nuggets in exchange. One of his employees named Perez followed them when they departed, until they reached a place where they began to dig with sharp sticks. Then he boldly joined them, and soon took about three ounces out of the sand and gravel. When Coronel and two other Indians came up, the four secured some forty-five ounces as the result of their first day's work. Another Spaniard joined them later, who found a twelve ounce nugget soon after beginning work. Still another Spaniard digging about a rock, nearly buried in the sand, took out as much gold as he could carry away in a coarse towel, and thinking he was rich enough, sold his right to the spot to a purchaser who in eight days took out fifty-two pounds of coarse gold.

Moving farther up the stream Coronel and a Sonoran who knew something of mining, fixed on a spot, where at the depth of four feet, the Sonoran found a pocket from which, in a few hours, he scooped up as much gold with a horn spoon as he could conveniently carry away in a wooden tray. He sold seventy-six ounces of it at the rate of \$2.50 per ounce, got very drunk and remained so until all his money and gold were gone, by which time others had exhausted his claim, and he went to seek a new one.

Captain Weber and party mined on Weber Creek, and one of the Kelseys, of Bear flag fame, with another party not far away. Later Weber arranged with an Indian chief known as José Jesus, to furnish ten of his tribesmen to mine where they would, and bring their product to him, to be paid for in such goods and trinkets as they preferred. The plan worked well, and new and rich diggings were found in this way, not only by Weber but by others. A man belonging to the party of William Daylor, a rancher from the Sacramento, found gold plentiful in the dry ground near the Placerville of today; and during June, July and August some three hundred men took out from three ounces to five pounds of gold per man per day. This was perhaps the first of what was afterward known as the dry diggings. Spanish bar, only a few miles northeast of Coloma, was discovered during the summer. Over a million dollars were later taken out of it. An Irishman nicknamed "Yankee Jim," also discovered a famously rich mine, and Iowa Hill and Illinois Town were also located in 1848.

Farther north John Bidwell prospected the streams on his grant near the present town of Chico, and finally located with a party on Bidwell's bar on Feather River. Not far away were Jacob P. Leese, Jasper O'Farrell, and two of their partners, who took out \$75,000 in about three months. Pierson B. Reading explored as far north as Trinity River with some success.

Soon after his arrival at the mines, Colton met his messmate, the governor, and Lieutenant Sherman, who had visited many camps on all the streams from the American to the Tuolumne, for the purpose of acquiring

first hand information upon which to make an official report to the president. While they were absent Larkin, who had ceased to be consul and confidential agent but had been appointed naval officer, had sent to the secretary of state such information as he was able to obtain from the mines, and the effect of the discovery on the people. On June 1st he wrote that about \$20,000 worth of dust had already been exchanged for merchandise at San Francisco. Miners were averaging from \$10 to \$50 per day; one had made \$25 per day for sixteen consecutive days. Half the tenements in town were locked up; men of all classes were going to the mines; the captain of a ship lying in the harbor, in order to keep his crew from deserting, had bargained with them to leave one man on board, while the others went to the mines in the ship's boats, which he stocked with provisions and tools, for which they were to give him two-thirds of the product of their labor. Parties of ten to fifteen persons were offering \$10 to \$15 per day for a cook. Returned miners were spending from twenty to thirty ounces per day each. On June 28th he wrote that he had made a trip to the mines, where he had seen a party of eight men, working with two roughly constructed rockers, who were getting about two pounds of gold per day, or \$54 per man. He had met with two brothers who had but one pan between them, and had seen them weigh out eighty-nine ounces as the result of one day's labor. A carpenter was asking \$50 per day to make rockers. There were then, as he thought, about two thousand people at the mines, two-thirds of whom were foreigners. Many thought

the mines would last a number of years, perhaps a century; he felt sure they were good for several years at least.

Governor Mason's report to the adjutant general was dated August 17, 1848, and contained much detailed information gathered from personal observation, and he sent with it two hundred and twenty-eight ounces of specimen nuggets, as more substantial evidence of what he had seen. He had visited mines on all the rivers from the American to the Tuolumne, having gone from Monterey to San Francisco, and thence by way of Bodega and Sonoma to Sutter's fort. Along the whole route, wheat fields were lying open to horses and cattle, mills were deserted, houses vacant, and farms going to waste. At Sutter's fort all was bustle and activity. Launches and boats of every kind were discharging or receiving cargoes, and carts were moving goods to stores. Sutter had only two mechanics at work, to each of whom he was paying \$10 per day. Merchants were paying him \$100 per month for a single room; a two-story house rented for \$500 a month. At the mines a trench about a hundred yards long, four feet wide and three deep was shown him, from which \$17,000 had been taken in a single week. A small ravine had yielded \$12,000. Men were picking gold out of the crevices in the rocks, in pieces weighing from one to six ounces, with butcher knives. At Weber's store, a man had given an ounce and a half of goldworth \$24—for a box of seidlitz powders. Another had paid \$1 a drop for laudanum. He estimated the total output of the mines, at that time, at from \$30,000 to \$50,000 a day; and thought the mines in the

Sacramento and San Joaquin valleys would easily repay the cost of the late war and all the government had paid Mexico for lands ceded.

All this gold was being taken from land which now belonged to the government, and he thought something should be paid for the privilege of mining, but saw no way in which he could collect it. The extent of the gold bearing region was large; he had but few soldiers, and had difficulty in holding these to the terms of their enlistment; he had therefore determined to make no regulations that he could not enforce, and would make none until provided with instructions and men enough to enforce them.

So far as the gold bearing region had been explored, it was about two hundred miles long by an average of thirty wide. It lay wholly on the western slope of the mountains; many believed the eastern slope would prove equally rich. The members of the Mormon battalion, many of whom had worked in the diggings during the summer, were for the most part returning to rejoin the members of their sect in the region of the Great Salt Lake. It was supposed they would prospect the eastern slope during their journey, and reports from them might be looked for.

This report was dispatched by special messenger, by way of Panama, and reached Washington in time for President Polk to mention the discovery in his message to congress in December.* Mason's letter was sub-

^{*}The president says: "The accounts of the abundance of gold in that territory are of such extraordinary character as would scarcely command belief, were they not corroborated by the authentic reports of officers in the public service, who have visited the mineral district, and derived the facts which they detail from personal observation."

mitted with it. The message and the letter were widely published, and gave to people everywhere the assurance that what they had already learned was true, as well as confidence that more remained to be told. People became eager for further information. The newspapers were scanned with the utmost interest. Private letters were not only read, and discussed by the families receiving them, but passed from hand to hand through whole neighborhoods. Many of them were published.

Early mention of the discovery was made in "The New York Herald" and other eastern papers, though only in an incidental way, the editors apparently having obtained their information from the special issue of "The Star" of April 1st. More specific and detailed information was published in "The Baltimore Sun," September 20th. From that time forth reports from the mines became more and more prominent in all Finally, when the president had endorsed the reports as authentic, the information in Mason's report and in Larkin's letters had been made public everywhere, the gold which Mason's messenger had brought had been publicly displayed at the war office, and the mint at Philadelphia had found the deposits made with it worth a few cents more than \$18 per ounce, people received all they read or heard about the mines as true and without question.

Meantime slow sailing ships in the Pacific, and a few steamers in the Atlantic, were spreading the news to all the world. Oregon, Mexico, and the Hawaiian Islands were naturally first to receive it. Then it passed along both coasts of South America, and crossed the Pacific to Japan, China and India. Clever ship masters sometimes took pains to keep it secret until they could discharge their cargoes and reload with flour, beef, pork, blankets, rubber goods, picks, shovels, crow bars, and other wares sure to be in demand at the mines, which they bought at going prices and later sold in San Francisco at handsome profits. They took care, however, to let the news be known before sailing, so as to insure an increased business in future.

So the secret of the mountains of California was discovered and made known to all the children of men. The result was electric. The quiet, dreamy life of the old mission days was at an end; a new California, born of full age, and armed for every enterprise, had taken its place.

CHAPTER V. THE GREAT MIGRATION



HE attention of all the world was now turned toward California. Wherever men worked with head or hands to improve their condition in life, the most enterprising and the most courageous turned their thoughts to the golden streams issuing from its hills, and hastily formed their plans for securing a part in them. The banker, the merchant, the manufacturer, the ship owner, the artisan, the farmer, the laborer, the professional man, the student, the artist—men of all degrees and conditions were inspired with new thoughts, new hopes, and new resolutions. Noble women—their wives, sisters, or sweethearts—became equally interested, and resolved to share with them whatever hardships and dangers they might be called upon to encounter, and reap with them the rewards of their enterprise.

Three general routes offered their more or less uninviting prospects to gold seekers of the Atlantic, Gulf, and interior states. One was by sailing ship around Cape Horn, a voyage likely to occupy anywhere from six to nine months, or even longer if unfavorable weather was encountered; one by way of the Isthmus of Panama, and one overland by wagon or pack train. As it was not possible to begin the overland trip in December, all at first turned to the ocean routes.

It is interesting to recall that at this time steam navigation was in its infancy. The first ship propelled by steam to cross the Atlantic had made the passage only ten years earlier. The Cunard, first of the trans-Atlantic lines, had been established in 1840, and its ships were hardly yet arriving and leaving by regular schedule. The ordinary time from Liverpool to New

York was eleven to seventeen days; the fact that "the monster steamer Himalaya, of 5,000 tons burden," had made the trip in about nine days, is mentioned in the "Cyclopedia of Commerceand Commercial Navigation" published by Harper & Brothers in 1858, as a matter of surprising progress.

Steam vessels engaged in the coasting trade were not numerous, nor could they readily be made available, even for the voyage to Panama; river steamers and those employed on the great inland lakes were numerous enough, but not suited for ocean voyages, while the only steamer that had been in the Pacific up to that time, was the Hudson's Bay Company's Beaver, then plying between Fort Nisqually in Puget Sound and Sitka. Traveling by these steam-propelled vessels was not only less comfortable than by the ships of the present day, but also less safe. Of the fifty-four ships employed in the trans-Atlantic trade before 1858, the President, the City of Glasgow, and the Pacific had been lost with all on board; the Arctic was sunk in a collision off the coast of Newfoundland, and but a few of her passengers or crew escaped, while four others were wrecked, though without loss of life. In the five years between 1848 and 1852, both inclusive, there were fifty steamboat explosions in the waters of the United States, causing a loss of 1,155 lives, while 416 lives were lost by other disasters.*

In 1847, while the war with Mexico was still in progress, congress had provided for a semi-monthly mail service between New York and Panama, for which \$200,000 was appropriated, and authorized a monthly

^{*}Cyclopedia of Commerce and Commercial Navigation, Harper & Brothers, 1858.

mail between Panama and Oregon by way of San Francisco, for which \$199,000 per year was proposed. Five steamers were required for the service in the Atlantic and three in the Pacific. Only three of the five called for on the eastern side were built in the beginning, though a smaller steamer, the Falcon, was employed after the gold rush began, and the government meantime paid the full contract price for carrying the mails. No responsible offer for the contract on the Pacific side was made for some months, and it was finally awarded to a speculator in 1848, who assigned to William H. Aspinwall. The Pacific Mail Steamship Company was then organized in April, 1848, with a capital of \$500,000, and three side-wheel steamers, of a little more than 1,000 tons each, were constructed. These were the California, the Oregon, and the Panama.* The California was the first to be ready for sea, and sailed from New York before the gold excitement began, with no passengers, on October 6th. The Panama was to have next been completed, but was delayed by an accident on her trial trip, and the Oregon was dispatched late in December by way of Magellan Straits.

The California arrived at Panama on January 30th, and found a crush of passengers awaiting her. Many of these had come by the Falcon, which left New York December 1st—five days before the president's message was published—coming by way of New Orleans, where she had taken on board as many people as she could possibly carry. Many others had come by sailing ships. All had been landed at Chagres, a village of

^{*}Their measurements were: California 1,050 tons, Oregon 1,099 tons, Panama 1,087 tons.

cane huts on the swampy shore of a little bay near the mouth of the Chagres river—a most unwholesome and unhealthy place. Thence they had made their way across the isthmus with the greatest difficulty; for there were no means of transportation except those of the most primitive kind, such as had been in use when the Spaniards carried the plunder of Peru from one ocean to the other three hundred years earlier. There were no places where food or lodging, or refreshment of any kind could be procured, except at the huts of the natives, and in hastily improvised hotels which were scarcely more comfortable. All who could do so procured passage up the Chagres river for a few miles in boats propelled with poles by lazy peons, and then continued the journey on mules or donkeys if they could get them. Others made the whole trip on mules or horseback, and still others walked. The road was scarcely more than a trail and in many places worse. Parts of it had once been paved with boulders or rough stone blocks, but from long neglect these had become next to impassable. The wise mules usually avoided them, and to do so braved swamps in which they nearly lost themselves in quagmires, or bore their riders through jungles in which, if they succeeded in clinging to their backs at all, they left much of their clothing and some part of their flesh as well, on thorns and briars. Those who employed boatmen for the journey up the river, thought themselves fortunate at first, but sometimes found occasion to envy those who had seemed less fortunate. Their lazy polemen constantly required new inducements to urge them forward. The weather was excessively hot; every overhanging bough tempted them to loiter in its shade, and rest from their exhausting labor. Their passengers, unaccustomed as they were to the fierce heat, and equally dreading their malarial surroundings, urged them to new efforts by gifts, by promises of increased pay and by imprecations, all about equally ineffective. From Cruces, where the trip by boat ended, everything was carried on men's shoulders, or the backs of animals over the mountain range to Panama. The trip from ocean to ocean occupied five days. The fierce heat and excessive rains, from which the travelers found but little protection, either by night or by day, told severely on the health of many, and few escaped the "Chagres fever." Worse than all, the cholera appeared, bringing swift death to a very large percentage of those attacked by it.

Trying as this journey was to these, the earliest travelers by this route, it told even more severely upon those who followed. These were the pioneers, who had to open the way as it were, but they escaped many of the dangers and vexations which attended those who came later. The natives had not yet learned the various devices which they in time invented, to extort increased payment from those who employed them; their vile habitations, filthy and vermin-infested as they were, had not been rendered deadly by the seeds of disease which the sick left in them, nor had the streams and the very air been polluted by the refuse of numberless camps, the putrid exhalations from dead animals and all too shallow graves.

Arrived at Panama, the troubles of the travelers were by no means ended; they were not even lessened.

The town was no better prepared for a friendly invasion than Chagres had been. The number of sick increased; there was no place in the town where they could be suitably cared for. Medicines were scarce, the food supply limited, and no one could guess with any sort of certainty when the *California* would arrive, or that she would ever arrive.

To the joy of all, she appeared in the offing on January 30th, and to the sorrow of many it was soon learned that she could offer passage to only a limited number even of those who held tickets. Little had been known about the gold discovery when she left New York. She had taken on about fifty passengers on the way up the west coast of South America, and had accommodations for only about one hundred altogether. Several hundred were demanding passage. They came off to the ship, a mile and a half from shore, in every kind of conveyance that would carry them, taking whatever chance of drowning there might be, in order to escape the discomforts and dangers of remaining where they were. Something over three hundred were taken on board* and the ship put to sea on February 1st.

The voyage northward occupied the whole of February, although subsequent trips were made in from twenty to twenty-three days. There was scarcely more than standing room on the ship. It had been necessary to take on provisions as well as passengers at Panama, and much that had been procured there was in very bad condition, if not wholly unfit for food. Complaints

^{*}There is no record of the number of passengers brought by the *California* on her first trip. It is variously given by different writers, at from 350 to 500.

were loud, particularly from the steerage. During the last two days of the voyage the ship was almost continually enveloped in a thick fog, making progress slow as well as dangerous. To add to the discomfort of the impatient passengers it was reported that the coal supply was nearly exhausted, and preparations were made to burn the lumber with which temporary sleeping bunks had been made for many of those last taken on board. This, however, was not necessary, as some coal was found in the ship's ballast, and on February 28th the *California*, first steamer to enter the Bay of San Francisco, rounded Point Lobos, and steamed up toward Alcatraz Island.

News that she had been sighted soon spread through the little city, and every one of its two thousand inhabitants, who was not kept at home by sickness, went to the water front to give her welcome. Telegraph Hill and Clark's Point were covered by the eager throng, who saw a spectacle that well repaid them for their trouble. There were five ships of war in the harbor at the time, under command of Commodore Thomas Ap Catesby Jones, who a little more than five years earlier had seized Monterey and then been obliged to restore it. Now the vanguard of myriads of his countrymen, who were coming to take and keep possession of the whole coast, was approaching, and he had prepared to signalize the occasion in a most impressive manner. The five ships had been stationed in line at proper intervals, the smallest nearest the entrance and the largest, the flagship Ohio, last to be passed. All were gaily decorated with flags, and manned for action. As the California came up the bay she passed through

this line, leaving one ship to the right and another to the left, and each as she passed it gave her a broadside salute from her opposite battery. When the flagship was passed, the yards of all five ships were manned and hearty cheers were given by the sailors, and as heartily returned from the crowded decks of the *California*, as well as by all on shore.

So ended the first voyage of the first steamer that ever rounded the southern continent under her own steam, and entered the Harbor of San Francisco.* The passengers were quickly transferred to shore in boats and lighters, and the crew and officers soon followed. It was only with the greatest difficulty that Captain Forbes persuaded one of her engineers, by promise of extra pay, to remain and care for the ship and her machinery, until a new crew could be engaged, which was not done until two months later. When the *Oregon* arrived on April 1st, her captain evaded a similar trouble by putting the more rebellious members of his crew in irons, and keeping them there until he was ready to put to sea again.

The *Panama* arrived June 4th and the *Oregon* made a second trip, returning June 13th, before the *California* came back from her second voyage, arriving July 15th.

Three other steamers, the *McKim*, the *Senator* and the *Unicorn* were added to the fleet during the year. The *McKim* was a small craft of only 327 tons register and a slow sailer. The *Unicorn* was 650 tons, and the *Senator* 750 tons. These six steamers made fourteen trips and landed 3,959 passengers at San Francisco

^{*}The Hudson's Bay Company's Beaver was brought out under sail in 1836, carrying her engines as freight, and they were installed at Fort Vancouver on the Columbia.

during the last ten months of 1849. On every trip they were compelled to leave more passengers at Panama than they brought away.

Notable among the passengers who came by the California on her first trip were: General Persifer F. Smith, who came to take command on the coast, Captain R. W. Heath, Major Fitzgerald, William Van Voorhees, afterward secretary of state, H. F. Williams, Lloyd Brooke, Asa Porter, S. F. Blaisdell, Robert B. Ord. D. W. C. Thompson, Major E. R. S. Canby, Alexander Austin, Eugene L. Sullivan, collector of customs, E. T. Batters, W. P. Walters, E. L. Morgan, Alfred Robinson, who had first come to California in 1829, and now returned as agent of the Pacific Mail Company, Malachi Fallon, A. M. Van Nostrand, B. F. Butterfield, O. J. Backus, J. B. Pine, R. M. Price, Pacificus Ord, Levi Stowell, Cleveland Forbes, Rev. Sylvester Woodbridge, Rev. O. C. Wheeler, Rev. J. W. Douglas, and Rev. S. H. Willey.

Among the passengers by the *Oregon* on her first trip were: Captain L. M. Goldsborough, Dr. A. J. Bowie, Major R. P. Hammond, Dr. George F. Turner, Captain E. D. Keyes, afterward a major-general, Frederick Billings, F. D. Atherton, John Benson, A. K. Harmon, Rev. Albert Williams, Dr. Horace Bacon, Dr. N. Hawley, Captain M. R. Roberts, E. B. Vreeland, Dr. W. F. Peabody, John W. Geary—the first postmaster appointed in California, who brought with him the first direct mail, and authority to establish new post offices along the coast—George H. Beach, William M. Lent, John T. Little, David Fay, J. Cowell, Samuel Blake, John T. Wright, and A. J. Morrell.

The Panama on her first trip brought Hall McAllister, William M. Gwin, Edward Pooley, John A. Collins, Samuel Ward, F. F. Low, Joseph Hooker, afterward major-general and commander of the Army of the Potomac, Henry B. Livingston, E. W. McKinstry, G. H. Derby, J. H. Jewett, E. V. H. Cronise, and John V. Plume. Among the lady passengers were Mrs. John C. Frémont, Mrs. Robert Allen, and Mrs. Alfred De Witt.

The steamship company had many difficulties to contend with during the early years of its operations in the Pacific, aside from those caused by deserting crews and crowding passengers. So little was known about handling coal at that time that it lost two ship loads by spontaneous combustion, while en route from Baltimore. On one of these Mrs. D. B. Bates was a passenger, her husband being the captain. The coal had been loaded while wet, and took fire by spontaneous combustion while they were crossing the equator on the southward voyage. They were able to make the Falkland Islands before the fire got beyond control, but there the ship burned to the water's edge and sank. They were rescued by another coal ship, commanded by its owner, with whom Captain Bates was acquainted, but his ship took fire while rounding Cape Horn and was also lost. All on board were rescued by a steamer which was also burned off the coast of Lower California.*

So many more people were landed at the isthmus by steamers and sailing ships than could find passage by the steamers on the western side, that Panama

^{*}Mrs. Bates has entertainingly told the story of her experience in these burning ships in her book, *Incidents on Land and Water*, or Four Years on the Pacific Coast, 1858.

early became crowded, and remained so for many months. The impatient gold seekers invaded every sailing ship that entered the harbor, no matter in what direction bound, and made such arrangements as they could to get away. Sometimes a party of them bought a ship outright. One such party, made up of forty-five who had come by the Falcon on her first voyage, bought the Dolphin, a ship of about 100 tons. Not one in the party knew anything about managing a ship. J. S. K. Ogier, who was afterwards a federal judge in southern California, was elected captain, and a man named Rossiter, whose knowledge of the sea had been gained from service on a Hudson river steamboat, undertook the responsible duties of navigator. A supply of such provisions as could be obtained was taken on board, and the ship's tanks, which were in bad condition were refilled. As these would not hold water enough for the voyage, and no casks or other suitable receptacles could be procured, two native canoes were purchased, filled and hoisted on deck, where they were covered with loose boards. By the time they were ready to sail there were sixtyeight persons in the party. Off the west coast of Lower California they were frequently becalmed for days together. Their supply of water beginning to run low they tried that in their canoes, but found it so impregnated with the taste of the wood that they could not use it. Their food supply was failing, and as a last resource forty-eight of the party asked to be set on shore, in order that they might make their way to San Diego on foot. Among these was James McClatchy, afterwards of the "Sacramento Bee."

The coast where this party landed was little better than a barren rock, and San Diego was supposed to be three hundred and fifty miles away. They had but a small supply of food, and all were already so nearly starved as to be unfit for travel. They had no water, and the heat was intolerable. Once they found some moist rocks in a cañon, which they licked with their swollen tongues in a vain effort to satisfy their raging thirst. They killed a few rattlesnakes and ate them, and these with some edible cacti sustained them until they reached the Mission El Rosario on June 5th.

Meantime the Dolphin, after sailing north to within sixty miles of Monterey, turned back to San Diego, where she arrived in a sinking condition and with all on board suffering greatly for both food and water. The experience of this company was hardly more painful than that of many others. Every ship was overcrowded. The Phoenix, a little vessel of only 70 tons, had sixty passengers on board, and was one hundred and fifteen days on the way, while the Two Friends, of 206 tons, had one hundred and sixty-four passengers, and was over five months out. Passengers by nearly all these ships not only suffered from insufficient food, but the little that was furnished was nearly always of bad quality. It had not been properly prepared and packed to withstand the climate of the isthmus, and much of it had been spoiled before it was taken on board the ships. Passengers blamed the ships' officers for its bad quality, frequently expressed their views in high language, and sometimes were on the point of mobbing them. A preacher who had taken passage with one of the most violent of these

companies, is said to have been asked if he was not shocked at the profanity of his companions, but replied deferentially that "the circumstances were exceptional."

Those who could not secure passage by steamer from their home ports turned to the sailing ships, many of which were offering to take passengers. The newspapers in most eastern cities presented columns of advertisements of these vessels in every issue. Companies were also made up in many places to buy ships, and reports of their plans and progress filled the news columns. The number seeking passage soon became so great that accommodations offered by almost any kind of ship were not refused. Old whalers that would perhaps never have attempted another voyage, luggers that even the old Spanish explorers, daring as they were, would hardly have ventured to sea in, well worn and worm eaten carriers of every kind were hastily recalked and fitted with the rudest accommodations, for one of the longest and most trying of voyages. Sixty-one sailing ships, with an average of fifty passengers each, left ports on the Atlantic coast between Salem, Massachusetts, and Norfolk, Virginia, in January, and sixty were advertised to sail from New York in February, seventy from Philadelphia and Boston, and eleven from New Bedford. Dealers in all sorts of ships' supplies were kept busy night and day. "Bakers keep their ovens hot," says the "New York Tribune," "turning out immense quantities of ship-bread, without supplying the demand; the provision stores of all kinds are besieged by orders. Manufacturers of rubber goods, rifles, pistols, knives, etc., can scarcely supply the demand."

Manufacturers of shovels, picks, and mining pans, of blankets, tents, and coarse clothing also did a thriving business. Numerous devices for separating gold from sand and gravel were invented by persons who knew something or nothing about mining; most of them proved to be of little value, though many of them were sold.

While those who went by way of the isthmus suffered much from overcrowding and poor food while on shipboard, as well as from exposure while crossing from the Atlantic to the Pacific, those who went by these sailing ships were in many cases more crowded and worse fed. The ships were rarely overstocked with provisions, and when driven far out of their course by storms, as they frequently were, those on board narrowly escaped starvation. Reverend James Woods, who came by the Alice Tarlton in 1849, tells of encountering a storm while rounding Cape Horn, which drove the ship back across the Atlantic to within eight hundred miles of the coast of Africa; she was obliged to return seventeen hundred miles to Rio, where she was delayed a month in refitting.* Many others encountered similar, and some even worse experiences. In crossing the equator they were delayed by calms that were almost as trying as storms, particularly to those afflicted with scurvy or fevers, as many were.

These sailing ships which had begun to leave the eastern ports late in December, 1848, or early in January, 1849, began to arrive in San Francisco in June. Eleven reached the harbor in that month, forty in July,

^{*}Recollections of Pioneer Work in California, by Reverend James Woods, San Francisco, 1878.

forty-three in August, sixty-six in September, twentyeight in October, and twenty-three in November. Besides these ships from American ports there arrived during the year from other ports three hundred and sixteen ships, making a total of five hundred and forty-nine, all or nearly all of which were immediately deserted, not only by their crews but by their officers. Not a few of them had made their last voyage. The careers of some should have terminated earlier, for they were unseaworthy long before they had last left port, and it was little less than miraculous that they had again come to harbor; but there was among them many a tall ship well fitted to have weathered many a storm, which was now left to swing idly at her anchor for many months. During the next five years there were more ships in San Francisco bay than in any other harbor in the world. As these ships arrived and dropped their anchors everybody on board, including the crews, made haste to get on shore, where news from the mines was eagerly inquired for and freely given. If any had feared that the mines might be exhausted before they arrived they were quickly reassured. that they had learned before leaving their homes seemed scarcely worth knowing in comparison with what they were now told. Each new story was of some richer find than the last. Nor was proof lacking that these stories were true. Everybody had money and was paying unheard of prices for whatever he wished to buy, as well as asking unheard of prices for whatever he had to sell. People parted with money easily, a sure indication that they could easily get more. One new arrival is said to have tendered a

half dollar to a roughly dressed man near the landing as he stepped ashore, with a request that he carry his satchel to a hotel; the person addressed threw two half dollars at his feet with the remark, "Carry it yourself."

In time new routes by way of the narrower parts of the continent were opened up, and travel by the long route around the Horn declined. A few had taken passage in 1849 for Tampico and Vera Cruz on the Mexican coast, or points on the eastern shore of Honduras and Central America, trusting to find some way of getting from the opposite shore to California by trading or other ships. Late in that year Commodore Vanderbilt began negotiations with Nicaragua, which led to the establishment of a line by which the trip was made in two days less time than by way of Panama. The Tehuantepec route was also well patronized for a time.

In 1849 the Panama railroad was projected and construction immediately begun. Gold seekers were offered free passage to California, twenty dollars in gold, and a pair of blankets for one hundred days' work on the grade. Some hundreds, possibly thousands, mostly from the Atlantic states, though some were from points on the Mississippi as far north as St. Louis, accepted this offer, going by way of New Orleans. J. E. Clark, later of Los Angeles was one of these.* The work was for a time in charge of Colonel E. D. Baker, while his brother was the company's physician. The contract with all called for a hundred days' work; no time was allowed for sickness. The death rate

^{*}MS., Historical Society of Southern California.

among them was terribly high. Little was known of the science of sanitation at that time, and coming from the north these laborers were wholly unprepared to withstand the fierce heat under which they were compelled to work. Deaths rarely averaged below one per day in every hundred, and were sometimes above three in a hundred. For this and other reasons the work progressed slowly, and was far more expensive than its promoters had expected. The road was not opened for business until January, 1855.

Some of the parties made up to buy ships sailed for points in Texas or northern Mexico, from which they made their way overland. By taking this route they planned to shorten the land journey, and also to begin it earlier than would be possible by more northern routes. These people usually knew little or nothing about the arid plains of western Texas, or of the deserts they would have to encounter in Arizona, southern California, and Sonora, where many of them lost their lives. The famed Camino del Diablo was fatal to many gold hunters during these early years of the gold excitement.

While many came by these various routes in 1849, a much larger number spent the winter in preparing for the journey overland. As soon as they could hope to find grass for their animals beyond the Missouri, they set off from all the states west of the great Appalachian range. Most of them knew something about camp life and traveling with ox, horse, or mule teams, having "moved west" at least once from an earlier home to a newer one on or near the border. They had learned something about the country they

must cross, either from letters written by friends who had preceded them to California or Oregon, or from reports which men like Peter H. Burnett and others had furnished the newspapers. But in spite of all they had learned, most endeavored to take with them more than they should have taken; and as a result all the trails were strewn with furniture, provisions and even goods of greater value, which their weary teams could drag no further. Parkman tells in "The Oregon Trail," of the clawfooted tables, the massive bureaus of carved oak, and other family heirlooms that were left along the way to bleach and bake in the sun in 1846; but the mass of such wreckage was increased many fold in later years.

The usual outfit for the journey was a stout wagon with a temporary cover of white canvas, or sheeting, which was sometimes oiled or painted, stretched over bows of hickory or oak. This cover formed a tolerable defense against rain, but little against the fierce heat and impalpable dust of the deserts. When sick people were compelled to ride in them for days together, they were extremely uncomfortable, for they were so well loaded that the only space in them was close to the canvas. Their loads were composed of the household effects of the owners together with trunks and boxes, and provisions for the journey. If a family owned more than one wagon it took with it more furniture, farm, or other implements, or possibly stocks of merchandise. These wagons were usually drawn by from four to twelve oxen, according to the weight of their loads, or by as many mules or horses. Sometimes when the family could afford it, a light wagon, or even a carriage in which the women and children could travel more comfortably than in the ox wagons, was taken along. These were drawn by horses, but usually kept their place in the line with the trains.

The man who had more than one wagon employed assistants as drivers, and many men who had neither teams nor wagons were so employed. A much larger number of men of this class crossed overland to California in 1849 than in any succeeding year. (Some of them made up parties and bought outfits of their own, and some were sufficiently independent and foolhardy to attempt the journey with push carts, and even with wheelbarrows, in which they carried a supply of provisions and miner's tools.\ Four of these wheelbarrow pushers passed Fort Kearny in Nebraska, in one day, when the Mounted Rifle regiment was halted there on D. A. Shaw later saw some of them its way to Oregon. on the Sweetwater, and Henry J. Coke,* an Englishman tells of one who had passed many trains, and was making an average of twenty-five miles a day. Delano saw a man traveling alone near Bear river, and without any baggage or supplies of any kind, except a bow and arrows and a blanket. He was living on prairie dogs and such other small game as he was able to kill, except when some kindly disposed travelers invited him to dine with them.

The main routes began at Westport, Independence, and St. Joseph on the Missouri. Leading from these points toward the southwest was the Santa Fe trail,

^{*}A Ride over the Rocky Mountains to Oregon and California.

traveled since 1824 by merchants with both wagons and pack trains; toward the northwest ran the Oregon trail, followed by the fur traders and trappers since Ashley's time, and since 1841 by ever increasing numbers of settlers moving toward California and Oregon. Another route beginning at Kanesville, now Council Bluffs, followed the north bank of the Platte to and beyond Grand Island, where the Oregon trail came into it from the south; this had been opened by the Mormons in 1846, and most of their trains with nearly eleven thousand people had gone over it since that time, though some hundreds of their belated people were still on the way.

It early became apparent that the grass would not be sufficient near these main lines of travel to maintain the vast number of animals the immigrants were taking with them, so many tried new routes which had hitherto been explored only by wandering hunters and trappers. These routes followed all the streams running from west to east through Kansas and southern Nebraska, but on nearing the mountains turned either to the north or south, to one or the other of the older routes. Most chose the Oregon trail.

Those who did not make the early part of the journey by the overcrowded steamers down the various tributaries of the Mississippi to St. Louis, and thence up the Missouri, crossed these great rivers by the rudely constructed ferries which some of the earlier immigrants had established. The rates charged were exorbitant, and many had to wait a week or more before they could send their wagons and their families across; their animals were forced to swim, and many were lost before reaching the farther shore.

When finally across the river the trains were made up for the long journey. It was supposed that large parties would travel more safely than small ones, because they would be better prepared to defend themselves against Indians, as well as to meet other emergencies. They were entering an uninhabited region where there was no law, nor means of adjusting disputes or redressing grievances, and all felt the need of having some sort of voluntary arrangement, for their mutual protection. But it was often difficult to organize these parties and choose their officers. Some wanted elaborate rules made limiting the authority of their captains, councils to advise or control them, legislative committees to amend or make new rules, and courts to which all disputes and differences of opinion could be referred for final decision. Much time was sometimes spent in making and revising these arrangements, and it was generally found that those most elaborately organized soonest went to pieces. Delano* tells of one party that had a constitution and by-laws, a president and vice-president, a legislature, three judges, a court of appeals, nine sergeants and numerous other officers.) Even the smaller parties were not always harmonious. Dissatisfied families dropped out from time to time, or sometimes a large party was divided into two or three smaller ones, so that combinations were continually dissolving and reforming; and it happened not infre-

^{*}Life on the Plains and in the Diggings, by A. Delano, 1854, p. 85.

quently that those who left a party, rejoined it later, having learned that they could not escape their troubles by changing their associates.

Except for the fierce storms that occasionally swept over the prairies traveling was agreeable enough for the first two or three hundred miles west of the Missouri. The trail was well marked; there was no uncertainty as to the route such as had perplexed the earlier immigrants, unless the start had been made too early. The continuous succession of hills like waves of the ocean, were covered with grass and studded with many colored flowers. Feed for the animals was abundant, and water was found at convenient intervals. The air was invigorating, and nothing suggested the trials the travelers were destined to encounter before their long journey was completed.

The earlier immigrants had generally traveled in one long column, but now the wagons were so numerous that four or five columns moved abreast.) At the end of a day's march the last wagon in each line went to the front, and became the leader for the following day, gradually falling back in the line day by day as those in the rear took their turns as leaders. The captains usually rode in advance during the day to explore the route, select the camping places and make such arrangements as might be necessary for crossing streams or surmounting other difficulties. When the camping place was reached, the wagons were formed in a circle inside which the women prepared the evening meal, while the men fetched fuel and water, unyoked or unhitched their teams, stationed guards and pickets, and generally prepared for the defense of the camp in

case of attack. Nearly every train had some musicians among its members, and after supper violins, guitars, and other musical instruments would be produced, and the nights would be filled with music, while such cares as had infested the day would be driven away into the darkness. Much of this part of the journey was more like a holiday excursion than a toilsome journey. Many of the younger members of the parties rode far and wide over the prairies on their saddle horses, others strayed away with their rifles in search of game, while those who were compelled to attend to more serious business sometimes inconsiderately amused themselves by racing their teams, a thing they later had much reason to regret.

Those who followed the old Santa Fe trail from Missouri River points and many of those who started from the Gulf states, as well as those who came by ships to Galveston, Tampico, and other points on the coast of Texas or old Mexico, met at Santa Fe. Thence they followed the Rio Grande south and west through Guadalupe Cañon to the town of Santa Cruz in Sonora, thence to Tucson, where a few days' rest was usually taken, thence across a desert region about sixty miles wide to the Pima villages on the Gila, where they procured fresh supplies of wheat, corn, and some vegetables. From these villages they followed the Gila to its junction with the Colorado, where in 1850 a party from Philadelphia, among whom were Captain George A. Johnson, later of San Diego, William Blake, who was subsequently married at Santa Barbara, B. N. Hart, Dr. Minton, Captain Ogden, Joseph Anderson, residing later at Cucamonga, and Louis John Fredrick Iaeger, built a ferry boat by which they were transferred to the California side. The first boat was thirty-five feet long. twelve feet wide, and two feet deep, and was constructed entirely of cottonwood planks which the party hewed out with their axes and fastened together with wooden pins: there was not a particle of iron in it. It was propelled across the river by large sweeps, and was generally carried down by the current for a distance of two miles before the opposite shore was reached, whence it was dragged back to the opposite landing The ferry charges were ten dollars for a team and wagon and fifty cents for each separate animal. This ferry was maintained by Iaeger (commonly known as "Don Diego" because the Indians could not pronounce the name Iaeger, their nearest approach to it being Diego) twenty-seven years, or until the railroad bridge was built in 1877. During these years he ferried over many thousands of people who were coming to or returning from California, nearly all of whom held him forever afterwards in affectionate remembrance. In later years he came to be widely known, and was sometimes called to Washington to give information in regard to the Indians, the Mexicans, or other matters in southern California or Arizona, requiring legislative attention.*

Two routes were followed beyond the river, one being that which Anza had established in 1774, which was most largely patronized, while a few took that of the Southern Pacific railroad of the present day. Both led across a wide stretch of desert which was fatal to many. These

^{*}Paper by B. A. Stevens, Publications of the Historical Society of Southern California, 1888-9.

routes probably claimed more victims in proportion to the number who came to California from that direction, than any other. In many places the desert was so thickly strewn with the wrecks of wagons, and the bleached bones of men and animals, as to make it appear that whole trains had perished there.

The first places of rest and refreshment reached by those who came from this direction were the Chino rancho owned by Isaac Williams, and Warner's rancho in San Diego county. At both they met a genuine California welcome. They were not only cordially received, but were invited to remain until both themselves and animals were thoroughly refreshed, and all their wants were supplied whether they were able to pay for what they received or not.

One of the parties crossing northern Mexico in 1849, was a notable one. It was organized in New York and was commanded at first by Colonel Henry L. Webb, who had seen service in Mexico, and later by John Woodhouse Audubon, son of the famous ornithologist, and himself a man of no ordinary scientific attainments. It was composed at first of eighty members, among whom were James B. Clement, Nichols Walsh, and John H. Tone, early fruit growers in the neighborhood of Stockton, Henry C. Mallory and Robert Simson of San Francisco. They had been furnished by friends with a capital of \$27,000 which they took with them in cash. They went by ship from New York to Philadelphia, and later to Baltimore; thence by rail to Cumberland, Maryland, where they took stage to Brownsville and Pittsburg; down the Ohio by boat to Cairo where they changed to another boat which conveyed them to New Orleans; there they took ship again for Brazos at the mouth of the Rio Grande, where they changed to a river steamer which conveyed them to a point opposite Rio Grande City, the head of navigation. Here while making their preparations for the overland journey, cholera made its appearance in their camp, and a number of the party died. To add to their misfortunes their money was stolen and only a part of it was recovered after a long search.

The party had chosen this southern route supposing they would be able to start on the overland journey much earlier than by one farther north; but they were held here until April 28th, by which time trains were moving on all the northern trails. Many of their members, and among them Colonel Webb, had become disheartened and turned back; only forty-eight continued the journey, with Audubon as captain.

From the Rio Grande they took the main road to Chihuahua, passing through Monterey, Saltillo, Buena Vista, and Parros, reaching Parral June 18th. The cholera followed them and Audubon was twice attacked but recovered. From Parral they struck across the mountains to Sonora, and reached Altar September 9th. They found no welcome among the people of that region, and were forced to enter upon the desolate wastes of the Papaguería with a very scant supply of provisions. They suffered much from the almost intolerable heat, as well as from lack of food and water, during the sixteen days they were on the march to the Gila, where they struck Kearny's trail and followed it to the Colorado. With the aid of the Indians, somewhat unwillingly given, and using an old wagon

box as a ferry boat, they crossed the river and entered upon the desert. When nearing the end of the second day's march, they came to some lagoons where they had hoped to find water, but there was none, and their beasts as well as themselves, were almost ready to die of thirst. They were not, however, the only ones who had been similarly disappointed here, for the place was strewn with abandoned wagons, and the dead and shrivelled bodies of many oxen, mules, and horses lay baking in the sun. "Not a blade of grass," says Audubon's journal, "or green thing of any kind, relieved the monotony of the parched, ash-colored earth, and the most melancholy scene presented itself that I have seen since I left the Rio Grande."

During the journey Mr. Audubon made a considerable collection of new varieties of plants and the skins of birds, but was obliged to leave them in California when he returned east in 1850; they were all subsequently lost with the wreck of the steamer *Central America* off the coast of Florida in 1857.*

(Those who took the Oregon trail from Independence or St. Joseph encountered their first serious difficulty at the Platte, a wide and shallow stream from whose treacherous quicksands they often escaped with difficulty; those who crossed at Kanesville met similar trouble at the Elkhorn and Loup rivers.) Those who found these streams swollen by recent rains were often compelled to improvise rafts or boats with which to send their wagons over; their animals were forced to swim. If the train were a large one, it was sometimes necessary

^{*}Audubon's Western Journal, 1844-1850, Cleveland, The Arthur H. Clark Company, 1906.

to make the crossing at several places. Temporary bridges were often built over smaller streams or deep gullies. Those constructed by the earlier trains were generally found sufficient, with a little labor spent in repairs, to serve for those which came later, and when they were not, new arrangements had to be improvised.

Those who traveled by the Mormon trail from Council Bluffs met those coming up from the more southern crossings at Westport, and St. Joseph at or near the confluence of the north and south forks of the Platte, where they were united. Those coming from the south in 1849 and for some years later were much the most numerous, a large percentage of their members having come up the Missouri by steamer from St. Louis. These trains in 1849 and later years were early attacked by the cholera, while those traveling by the northern route were generally free from it until they met those coming from the south. Many died from this scourge before reaching Independence. The boat by which G. W. Thissell traveled from McConnelsville, Ohio, to St. Louis in March, 1849, stopped to bury four of its passengers at Louisville, and eleven more just before it reached its destination.* Delano's party lost one of its members just after reaching Westport in April, and one man died on the boat coming up from St. Louis.

In many of the trains deaths were of daily occurrence. Sometimes whole families were swept away. "Some wagons lost two-thirds of their mess," says Isaac Foster,† "two lost seven out of nine." Sometimes

^{*}Crossing the Plains in '49, by G. W. Thissell, Oakland, California, 1903.
†MS. by Reverend Isaac Foster of Plainfield, Illinois, courtesy of Charles B.
Turrill.

all the male members of a family would be taken, leaving the wife to continue the journey with her children as best she could. Sometimes the mother would be taken leaving the father to care for the children. In some cases only children or a single child would be left, too young to care for itself, but never so far as reported did any of these fail to find considerate friends to care for them. Many died also from other diseases, some from exposure, some were drowned, many were killed by accidents, and not a few were murdered.

Beyond the main crossing of the Platte the country was less rolling, the soil more sandy, the grass began to diminish, and desirable camping places were rarely found. The mules and oxen began to be footsore, and those which had been inconsiderately driven, rapidly broke down. It was here that the loads began to be lightened, and from this point to the eastern base of the Sierra Nevada in 1849 and later years, the trail was thickly strewn with valuable goods of all descriptions. There were so many teams that it became more and more difficult to find desirable camping places, where grass was sufficient for the animals. Many times it was necessary to drive them for a distance of some miles to one side or the other of the main traveled way to find grazing, and this difficulty increased steadily as progress was made towards the west.

Between the Missouri and the mountains terrific storms were frequently encountered. These came up suddenly and often found the travelers but poorly prepared to encounter them. Rain fell in torrents, the teams turned about in spite of all the drivers could do to prevent them, overturning the wagons, while the wind stripped off their covers leaving their contents exposed to the storm, or perhaps scattered over the prairie. The driven animals stampeded, running before the storm, sometimes for many miles, and were collected again with great difficulty, and after much delay. These storms were accompanied by vivid and incessant flashes of lightning, and tremendous peals of thunder, which Parkman describes as unlike "the tame thunder of the Atlantic coast. Bursting with a terrific crash directly over our heads, it roared over the boundless waste of prairie, seeming to roll around the whole circle of the firmanent with a peculiar and awful reverberation."

At Fort Laramie, on the Platte, nearly a hundred miles north of the present city of Cheyenne, the travelers found the first break in the monotony of their journey.) The fort was originally a trading post of the American Fur Company, but in 1849 two companies of soldiers were stationed there. Here it was possible to obtain such supplies as sugar, tea, coffee, salt, and medicines in limited quantities and at very high prices; and those whose wagons needed repairing stopped for a few days to overhaul them. The careless or reckless drivers who had needlessly worn out their animals, also rearranged and lightened their loads; many of them who had more than one wagon, abandoned some of them and so were able to strengthen their teams for the others. Enormous quantities of goods were thrown away, including bacon, hard bread, clothes, trunks, spades, picks, guns, and all sorts of mining and other implements. A good wagon could be

FORT LARAMIE

Built in 1835 by Robert Campbell of the Rocky Mountain Fur Company who named it Fort William for his friend and partner, William Sublette, the famous trapper. It was built of adobe with walls 15 feet high, and surmounted by a slender palisade and it had bastions at two of its corners. The main entrance had two gates with an arched passage intervening, into which a little window, high above the ground, opened from an adjoining chamber, so that when the inner gate was closed and barred a person without could hold communication with those within through this narrow aperture.

INTERNATIONAL PROPERTY.

s exposed to the storm, or perhaps

accompanied

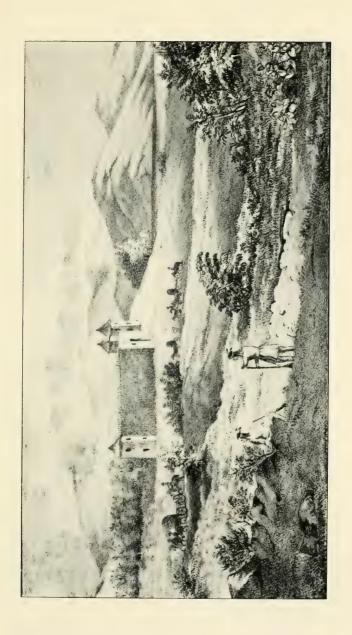
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bought for from five to fifteen dollars. Many took the trouble to destroy the things they were leaving. They poured turpentine on sugar, mixed sand with flour, burned wagons and other implements, while others piled what they left as carefully as if intending to return and reclaim it, and then affixed a card to the pile, inviting any who could make use of it to help themselves. A register was kept here in 1850, and John Carr, one of the early settlers in Trinity county inscribed his name in it as No. 53,232 on May 12th of that year.

Beyond Laramie the trail wound through the Black Hills, to the Sweetwater near Independence rock, and along that stream to South Pass.) The ascent in this part of the journey was more rapid than it had been east of Laramie; feed for the animals was less abundant, and a sufficient supply of wholesome water was often hard to procure. The muddy water of the Platte, never very refreshing, began to be impregnated with the refuse of many camps, and men and animals alike loathed it. Some of its tributaries were bitter with alkali. Although springs and small lakes frequently tempted both men and animals to cool their parched lips and throats, their waters were like those of Marah. At some of them notices were posted with warning that they were poisonous. Nor were these the worst of the troubles encountered. Sharp bits of rock, shattered and ground by many passing wheels, wounded the feet of cattle and horses, making it painful for them to travel, and foot coverings of leather or canvas were made for them. It was still necessary to lighten loads continually, and dead and dying animals which had dragged their burdens to the very limit of their strength were

frequently seen. Death also continued to claim its toll from the human part of this vast procession. Every camping place had its grave yard, and frequently a train would be halted during the day, to bury some member of its party, who had seemed to be in perfect health only a few hours earlier. Bayard Taylor says it was estimated that four thousand people died on the overland journey of cholera alone in 1849; Dr. Stillman, who was in charge of a hospital in San Francisco, estimated the number at ten thousand.

Many also lost their lives in crossing the swift flowing streams on this part of the journey. Ferries had been established at these by some of those who arrived at them earliest. They charged from one to three dollars for each wagon, and sometimes made from two hundred to three hundred dollars per day.) At some of these hundreds of wagons would be waiting their turn to be taken over. As some of the immigrants had started with very little money, supposing they would have no use for it on the journey, they were forced to seek for fords, or find other means of getting their property over; in doing this great risks were sometimes taken, and many were drowned or lost their lives in other ways in getting over.

While the Indians were troublesome in the earlier, as well as later part of the journey, they did not openly attack the trains and camps as they had sometimes attacked those of the Oregon immigrants. The parties were now too large, and too near together, and besides there were soldiers at Fort Laramie and Loring Cantonment for whom the Indians had a wholesome regard. But single individuals or small parties who left the

trains to look for new crossings of the larger streams, to hunt for strayed cattle, or shoot buffalo, antelope, or smaller game, were always in danger, and many such were killed. L. W. Hastings and A. Lawrence Lovejoy, members of the White party in 1842, were taken prisoners on the Sweetwater, but their captors soon released them, having apparently no other intention than to exact some trinkets from their friends for their release. Six years later P. B. Cornwall and two or three companions, including a guide, were captured by a party of Pawnees, and listened during nearly a whole night while their captors discussed the manner of their deaths. Some wished simply to kill them, while others would put them to the torture; a few advised holding them for ransom because soldiers might be in the vicinity who would come to avenge them if they were killed. The guide understood the Pawnee language, though the Indians did not know it, and kept his companions advised as to what was proposed for them. When soldiers were mentioned the prisoners took hope, and by signs assured their captors that if any harm was done them the soldiers would surely come to punish them. This argument prevailed and they were set at liberty, though they were later pursued by those who were most thirsty for their blood; and from these they were saved by a band of Sioux, who were at war with the Pawnees, and who appeared in time to give their persecutors other occupation.*

^{*}Cornwall intended at first to go to Oregon, but changed his mind at or near Fort Hall. Before starting he had been made the bearer of a charter for the first Masonic lodge on the coast; this he turned over to one of his companions who carried it through to Portland.

As if death were not claiming victims enough through pestilence, accidents and the attacks of Indians, many died by violence. Some of these were the victims of sudden passion, and were killed in quarrels growing out of no real provocation. Men's nerves became inflamed by the fever of excitement in which they lived, by their unusual toils and perplexities, by loss of sleep and loss of property, by exposure and the thousand variations from the regular course of life to which they had been accustomed. They quarreled about trifles, and were tempted into excesses that would have startled them in their more rational moments. Every diarist of the journey has a story to tell of some petty quarrel carried to a ridiculous extreme, and some have many. Two seemingly devoted friends and constant companions suddenly became implacable enemies because one refused to give the other a chew of tobacco. Another pair, one of whom owned the team and the other the wagon with which they were traveling, suddenly quarreled about something nobody knew what, drew out of the line and dissolved their partnership, one taking his team and the other his wagon. In other cases loads of goods would be divided, and all articles not capable of division, such as a sheet iron stove or other piece of camp furniture, would be chopped in two with an ax, so that each partner might have his exact share of it. Men became minutely particular and exacting under such circumstances. Sometimes these quarrels became tragic. (Pistols or knives would be drawn and murder committed before anyone could interfere. Occasionally some one was murdered from mere

wantonness. There were with many of the trains during all the years from 1841 to 1869, and perhaps later, some vicious characters such as Parkman has described as "the vilest outcasts in the country." One of these murdered a man and his wife on the upper waters of the Platte, gave their two children to some Indians and took possession of their property. The children were noticed by some of the immigrants a few days later, who made inquiry about them, and although they were too young to be able to give much information learned enough from them and the Indians to excite their suspicions. Scouts were sent out who found the murderer and the stolen property. The bodies of his victims were also found, proof of his guilt established and he was hanged. Other murderers were similarly treated. Sometimes murderers would nearly escape, and would be captured after a pursuit of several days; sometimes they would be caught red-handed in the presence of those who had witnessed their crime. In either case they were nearly always allowed to make such defense as they could before a jury of their fellow travelers. If the accused in any case could establish his innocence, show extreme provocation or reasonable doubt of his guilt, he was acquitted or subjected to only a moderate punishment; but if guilt was clearly proven he was given short shrift. If no tree was convenient, two wagons would be turned front to front, their poles elevated and fastened together and on these he would be hanged almost as soon as his trial ended.

Although without authority in law, trials by these courts were usually conducted with deliberation, and

their judgments were rarely influenced by passion. Judges and juries realized the gravity of their responsibilities, and sought only to do so much as might be necessary to protect their families and property. They did not always convict even those who were charged with the gravest offenses, and the justice they administered was often tempered with mercy. D. A. Shaw of Pasadena defended a man charged with murder, who admitted having shot his victim as charged; but it was shown that the shooting had been done in self defense and he was acquitted. There were many similar cases.

These courts were not organized to try those charged with capital offenses only. Thieves and offenders against public decency were often brought to book. A man who robbed the family of Edward Hanford of a small trunk in which their money was kept, was captured and put on trial. The circumstances of the case were aggravating. The family had found him lying sick by the road, and had taken him into their wagon, after many had passed him by. He was very ill of typhoid fever. Mrs. Hanford nursed him back to health and he rewarded her kindness by robbing her. Many thought he deserved to be hanged, but the women of the train, including Mrs. Hanford, interceded in his behalf, and nothing was done but to banish him from the party. Those who thought he had been dealt with too leniently subsequently noticed with satisfaction, that a man giving the name by which he had been known to them, had been hanged by the vigilantes in San Francisco

Petty thieves were whipped; meaner offenders were whipped and driven out of the trains. Sometimes an offender would be bound to a wagon wheel and given a fixed number of lashes, well laid on; sometimes he would be given only so many as the male members of the party could inflict with their ox goads, while he was making his exit from camp. Many a moral lesson was administered on the plains that a more settled society might apply with profit in similar cases.

Before reaching the upper waters of the Platte, or the Sweetwater, its principal tributary, which the main trail followed to the summit, many gave up in despair and retraced their way to the homes from which they had started. The number of these it has never been possible to estimate, but there were hundreds and possibly thousands. They were usually families who had lost some of their members, or so much of their property that they no longer felt it safe to proceed. Many were widows whose husbands, and perhaps older sons on whom they had relied, had died of cholera and other diseases, leaving them to care for other children who were too young to assist them. Some were sick, or suffering from wounds resulting from accidents or encounters with the Indians, and all were very miserable; but their condition was far less pathetic and pitiable than would be that of their late companions, when nearing the end of their wearisome journey.

The stout of heart pressed forward, though many of them had suffered more and lost more than some who turned back. Crossing the Rocky mountains through the South Pass, at an elevation of seven thousand and eighty-five feet, they found themselves on the eastern

border of what had once been a vast interior sea, now an arid region traversed by ranges of rugged hills or low mountains, lying directly across their path. Between these lay wide stretches of desert, sometimes so thickly encrusted with alkali as to give them the appearance of being covered with snow. Sometimes they were paved with beds of lava over which their wheels rattled as on a stony street, and again there would be miles together of volcanic ash, trodden by many feet into an impalpable dust, through which men and animals waded to the knees, while the wind, always from the west, blew clouds of it in their faces, making breathing difficult and their thirst almost intolerable. Occasionally there would be narrow valleys which offered refreshment for the cattle, but often the grass was so poisoned by alkali that they could not eat it, or if they did, death would soon follow. As the season advanced these pases on both sides of the trail were so thoroughly stripped of all nourishing verdure, that long halts were made while starving brutes were driven for miles over the hills in search of pasture. Thus numerous delays occurred, during which the travelers found their food supplies, already dangerously reduced in order to lighten their wagons, still further depleted.

The eastern side of this broad interior valley was drained by the Green river, through the Colorado, into the Gulf of California; its western side formed a great basin whose streams found no outlet to the sea, but ended in reedy lakes called sinks, the water of which lost itself in the sand, or disappeared through the process of evaporization.

For the first stage of their journey across this uninviting wilderness, two routes lay open, one the old Oregon trail by way of Bear river and the Portneuf to Fort Hall, thence down the Snake to Raft river, and on over the hills to Goose creek, and to the head waters of the Mary or Humboldt river; the other trended toward the southwest to Fort Bridger and Salt Lake. Both lay across a desert forty-five miles wide, in which there was no water or grass for their animals, and which they usually crossed in a single journey, sometimes requiring thirty hours of continuous traveling. These trails united again beyond the northern end of Great Salt Lake.

Those who followed the southern route found a resting place at Fort Bridger, a trading post established some years earlier by James Bridger,* and another at Salt Lake which the Mormons had founded two years earlier, not a hundred miles from the desolate spot where the Donner party had buried Luke Halloran in a bed of almost pure salt in 1846. In the brief time since the Mormons had arrived they had not only laid out a city, but had made much progress in building irrigating ditches and in growing crops, and they were now able to supply the immigrants with considerable quantities of fresh provisions. These were gratefully received and willingly paid for in most cases, though some have complained at the prices charged, and even represented that supplies were withheld without

^{*}This post was in the southern end of what is now Uinta County, Wyoming—the southwest corner of the state. Bridger had a Spaniard named Vasquez for a partner at one time, through whom probably a land grant was secured. This grant and the fort were sold to the Mormons in 1853 and was the first land they acquired in the Green River valley.

reason from some who were in urgent need. There was not much complaint of this kind, however, and the testimony of the majority is that the saints were as generous as they could afford to be.

From Salt Lake a variety of routes lay open. One of these leading towards the southwest, followed generally that of the San Pedro, Los Angeles, and Salt Lake railroad of the present day. It was the old Spanish trail by way of the Rio Virgen, Mountain Meadows, and Las Vegas, which were famous camping places. It kept well to the west of the Colorado, to and across the Mojave desert to southern California. This route was chosen by several trains in 1849—particularly if they were late in arriving at Salt Lake—and by other thousands, in later years.

From this route another turned off to the right near Sevier lake, and led across Death valley to the southern end of the San Joaquin valley. A few were persuaded to try the Hastings cut-off, going around the southern end of the Salt lake, and across the desert west of it in its widest part; but most went by the northern end of the lake, and joined those who had gone round by Fort Hall at or near Goose creek.

Judge Walter Van Dyke, of Los Angeles, was with one of the first parties to take the southwest route in 1849, and has told the story of his journey in an interesting paper read before the Historical Society of southern California in 1894. His party found Mormon settlements at various points in western Utah, and after passing them were much annoyed by the Indians, being compelled to stand guard over their cattle at night. They reached Mountain Meadows in

November, and stopped there to recruit their cattle. A fierce snow storm overtook them there making camp duty and guarding their cattle very disagreeable. When they reached the Rio Virgen in December their animals were starving and many had died by the way. Their provisions were nearly exhausted, and on January 1st, a party of volunteers were sent forward to Los Angeles to procure relief. This was found at the Cucamonga and Chino ranchos, from which help had been voluntarily sent to other trains earlier in the season.

Those who came to California by this route in 1849 and later years, avoided many of the difficulties encountered by those who followed the Humboldt in crossing the Sierra Nevada. Their greatest trials were met in crossing the wide arid reaches in southwestern Utah, southern Nevada, and the Mojave desert.

In 1849 a considerable number of gold seekers were induced to leave this southwest trail at Sevier Lake or Mountain Meadows, by representations that they would find a good pass through the Sierra Nevada, with grass and water at convenient camping places all the way; and their journey would end in a pleasant part of California near Tulare lake. One of the first parties to take this route had been furnished with a rudely drawn map by a man named Williams at Salt Lake. This map showed that the route was shorter than any of the others, and this recommended it strongly to many, for all were already weary of their long journey and anxious to find its end. Captain Hunt, who had been secured as a guide by the Van Dyke party at Salt Lake, earnestly advised them not

to try it, though he had never been over it and knew nothing about it, except in a very general way. His knowledge of the country, and his instincts as a plainsman furnished about the only argument he could offer against it, and the way weary travelers pronounced these insufficient—or at least no better than those the maker of their map had furnished. A large number declared for this shorter route at first, but after traveling several days a majority of these turned back to follow Hunt's train. The others, though somewhat discouraged, pressed forward. More than half of them were single men, and in time separated from the others in order that they might travel more rapidly. When the mountains were reached no pass was found. Winter was at hand. An apparently unbroken and unsurmountable mountain range confronted them, while a wide stretch of desert in which their cattle could not long subsist, surrounded them on every side. Their supplies were getting dangerously low. Though they could not know what awaited them on the other side of the mountains, they felt that they must go forward, for to return seemed next to impossible.

Five families, numbering with their employees, eight men, three women and five children, with seven wagons drawn by oxen, attacked the mountains on November 4th, and did not get across until early in January. Two other families who preferred to travel by themselves were frequently near them, and they occasionally caught sight of those who had deserted them in order that they might travel faster, but who, like themselves frequently became entangled in the impassable cañons and were compelled to turn back.

When finally across the mountains they entered upon one of the most desolate regions on the continent—a broad desert lying lower than the level of the sea, its floor covered with alternate wastes of loose sand and beds of salt, a region uninhabited and uninhabitable by man or beast, or bird, except vultures which hover near the chance traveler who happens to invade it, as if certain that sooner or later he must become their prey.

After wandering in this dismal region for some days, it became evident that all must perish unless a fresh supply of food could be obtained, and two of the youngest and strongest single men were sent to explore the country in advance and see if help could be obtained.* They had already killed some of their weakest cattle, and it was hoped that when these messengers left them they might manage to subsist for ten days longer, without killing any of the others.

The messengers were absent twenty-six days. During the outward journey they managed to kill a crow, a hawk, a quail and a goose, which saved them from starvation. They overtook the party of single men who had earlier deserted their company, and found that some of them had died while the others were nearly famished. They had divided their provisions, and agreed that each should save himself if he could, and expect no help from the others.

On returning to their friends with a mule loaded with beef, beans and flour procured at the Mission San

^{*}One of these was William Lewis Manly, who has told the story of the sufferings of this party in *Death Valley in 1840*, The Pacific Tree and Vine Company, San José, 1894.

Fernando, the messengers found them making a last desperate effort to get forward. They had given up hope of their return, supposing they had died in the desert, or if they had succeeded in escaping from it that they had lacked strength, and perhaps courage to bring them relief.

Only the male members of the party were now told of the privations and dangers they had still to encounter, as it was feared the women would not have courage to face them with their children, if allowed to know how great they really were. They, however, proved to be quite equal to all that was required of them. The wagons were abandoned, the women and children mounted on the oxen, and in this way the journey was completed. Six of the eleven animals with which the last stage of the journey was begun, were killed and eaten on the way, though the little flesh left on them was quite as tough and almost as juiceless as leather.

Another and larger party crossed this valley in 1849, though many of its members died by the way. Eleven perished in one night near a water hole, which has since borne the name of Poisoned Spring, and many others were made severely sick by drinking its waters which seemed to be entirely sweet and wholesome, but were really poisonous. The company were so appalled by this calamity that all would perhaps have given up in despair had not one resolute woman encouraged them to make further effort. She told them she had dreamed that they would at last find a way of escape through an opening in the mountains which they could see

ahead of them; and mounting an ox, she called to them to follow. All who did so found the pass as promised, and it is still known as Ox Pass.*

Members of both of these parties have since claimed to have given this valley its name. Perhaps all did so, for it is so appropriate as to suggest itself before all others, to those who travel in it. It is a place in which life dies and death lives, and had the few people who crossed it in the earlier years of California history reached it at any other season than that they did, not one would have emerged from it alive.

Painful as was the experience of all travelers by these southern routes in 1849, and the early 50's, their sufferings were not greater than those who followed the Humboldt, who were vastly more numerous. That route was a veritable via Dolorosa from the point where the trails from Fort Hall and Salt Lake united, to and beyond the base of the Sierra Nevada. From June until October it was crowded with men, women, and children, struggling as they could through one vast cloud of blinding, smothering dust while their jaded teams were dragging their almost empty wagons over hills of crumbling shale, or loose sand and gravel; through deep trenches worn by other wheels, in beds of alkaline earth or volcanic ash, or across broad stretches of desert in which there was no water, and not even a mouthful of bitter wormwood for horses or oxen. It was here that the heat of summer was greatest by day, and the cold severest by night; often when the temperature would be almost unbearable at midday, ice would

^{*}Lights and Shadows of Life on the Pacific Coast, by S. D. Woods, Funk and Wagnall's Company, New York and London.

form in their water pails while they were asleep. was here that the Indians were most troublesome. watching them from behind the hills or other places of concealment during the day, haunting their camps by night, wounding their cattle with their arrows when they could not stampede them, and butchering any unarmed straggler who strayed beyond the protection of his fellows. Cholera continued to pursue them, and scurvy began to appear. The acrid water found in standing pools or obtained from the river did not satisfy their thirst; it often added to their miseries, and to the sick it was the cup of Tantalus. The tortures of their situation were increased by memories of the plenty they had left, or dreams of the abundance of which they were in pursuit, and by the impossibility of returning or of hastening their advance. Urgent as the need was to get forward, they were often compelled to lay by and send their animals miles away in search of forage. Those who had still farthest to go suffered most from this cause, the grass already dry from the intense heat of summer, having been eaten to the roots by the teams in advance, or sometimes set on fire by some careless camper. Bayard Taylor was told of a case in which a fire had been willfully set by a man who hoped by burning the grass to delay those behind him so much as to give his own animals a better supply. He was pursued and shot. It is difficult to believe that any human being would resort to a device of this kind, even to extricate himself from a desperate situation, and yet similar instances of wholesale cruelty are numerous and well authenticated. Captain S. N. Harriman, later of Winters, and his party were

attacked by white robbers on Raft river, who took all their property except their clothes, some blankets and such food as they could carry, leaving them, men, women, and children to complete their journey on foot.*

Sixty-five miles above the sink of the Humboldt some of the travelers were tempted to leave the main trail and turn off to one leading to the north and west. entering California through Lassen's Pass. By this route they were told they would find both grass and water at the end of twelve miles, and a more abundant supply of both at Rabbit Springs only thirty-five miles distant. A more potent argument was that the other route was strewn with the putrefying bodies of dead Some thousands tried this trail to their infinite sorrow. Some of these turned back after going more than half way across a waterless waste which was more than seventy-miles wide. Rabbit Springs were found to be mere holes scooped out of the sand, from which water could be got only by the cupful. It was very impure and there was hardly enough of it for the women and children; the poor animals got none. The little grass there had been had barely served for the first few trains; those following got nothing either to eat or drink during the two whole days and nights of almost continuous travel. Many of the poor creatures perished by the way; only the strongest survived. Some were saved by unvoking them twenty or thirty miles from the border of the desert and driving them forward to water. When this was done the people left with the wagons suffered greatly, as it was necessary to wait for the animals to

^{*}Thissell quotes Harriman's diary at length in his Crossing the Plains in '40.

feed as well as drink. Delano came upon a woman and child who had been left in this way and were nearly famished. He had a little water left in his canteen, which he gave them—enough for the child only, but the woman was as grateful as if there had been enough for her also; the child's life was saved, and she had become sufficiently familiar with privation to be able to endure yet a little longer.

In the few places where a considerable supply of water was found in the long stretch from the Humboldt to Lassen's Pass, as well as at many other places west of Salt Lake, it issued from boiling springs, and it was necessary to let it cool for some time before men or animals could drink it. This was difficult to do because of lack of pails or tubs, and if led away into holes made in the sand, it was quickly absorbed. The thirsty animals sometimes crowded into it in spite of all efforts to restrain them and were literally boiled alive. If rescued at all their feet would be so badly scalded that their hoofs would come off and it would be necessary to kill them.

Delano also came upon many oxen and mules which had been abandoned in this desert waste by owners who were only able to save themselves. "Some of these," he says, "would be just gasping for breath, others unable to stand would issue low moans as I came up, in a most distressing manner, showing intense agony; and still others, unable to walk, seemed to brace themselves on their legs to prevent falling, while here and there a poor ox or horse, just able to drag himself along, would stagger toward me with a low sound, as if begging for a drop of water."

At the sink of the Humboldt there was choice of two routes: one leading across the desert forty-five miles wide to the lower crossing of the Truckee river, thence following the river through Donner, then called Truckee Pass, to Bear river and Johnson's ranch; the other leading more toward the south to Carson river, which it followed through the Hope Valley to Tragedy Springs and Placerville. Those who took these routes were by far the most numerous, and they found the desert strewn with dead and dying animals, as well as by an immense amount of wreckage as had been represented. Most of those whose teams were weakest, or whose supplies were nearly exhausted, took this route because of the urgent necessity of reaching the end of their journey at the earliest possible moment; and it was largely for that reason that the trail through this last stretch of desert waste, was most thickly strewn with dead and dying animals and with abandoned property. Prudent managers made some preparations at the sink, by cutting grass-sometimes where it was covered with water-and by taking with them a small supply of water for their cattle as well as for themselves; and these generally managed to get across in safety, but they had no surplus strength with which to assist those who had been less thoughtful. The struggle was one in which each could rarely do more than care for himself and those dependent upon him. No matter how much his heart might be wrung by the pleadings of fainting women, or helpless children, he could do little for them, and that little only at the peril of his own life and that of those depending on him.

The suffering of the immigrants, great as it was in this part of the journey in 1849, would have been greater and more lives would have been sacrificed had not timely arrangements been made to send them assistance. As early as August General Smith had ordered pack trains with supplies to be sent across the mountains, by all the routes over which the immigrants were expected to come; and he was warmly seconded by Governor Riley. Public meetings were also held in San Francisco and Sacramento at which considerable sums were subscribed for relief purposes. The distribution of this relief was in this year, entrusted to Major Rucker, who dispatched parties with supplies to the Truckee and Carson river routes, and went himself to Lassen's Pass. The first parties, after supplying all they found in need by the way, reached the sink of the Humboldt, started all the families they found encamped there on toward the mountains. and got the last of them safely over only a day or two in advance of a heavy fall of snow which entirely blocked the passes. Major Rucker was less fortunate. The northern route was so much longer than the others, that many who had taken it were almost entirely helpless. Some had lost all their animals, and others so many that the few they had left were of little use to them. The Indians had been extremely troublesome, particularly along Pitt river. had harassed the trains almost continually, and sometimes had been driven off only after sharp fighting. Delano tells of one attack in which they ran off all the cattle belonging to a small party, and then killed all its male members who went in pursuit of them,

leaving the women and children alone. Snow had begun to fall and they must have perished had they not been found by three men who had been sent forward by some of those still behind them, to procure supplies at Lassen's, ninety miles distant. They had taken only a scant supply of provisions for their journey, but generously gave all they had to those whose necessities were so evidently greater than their own, saving nothing for the long journey they had yet to make.

Rucker found so many in this part of their journey entirely destitute, that he was obliged to send back for more supplies. The trail through the mountains by this route reached Pitt river through a low pass, and after following the river for about ninety miles, met a spur of the Sierra five or six thousand feet high, running from near the head waters of Feather river toward Shasta peak. This last barrier seemed a hopeless one to many. Their emaciated animals could hardly travel on level ground, much less climb a rugged mountain. They had given way to despair when relief reached them. Although they had struggled bravely and unflinchingly for six months on the plains and in the deserts and mountains, braving pestilence, Indians, the attack of savage animals, the continuous dangers of a still more savage wilderness, they had now become almost insensible to danger, and could hardly be roused to the perils of their situation. The snow was already three or four feet deep and might at any time envelop them, cutting off all hope of escape. Worn out with their exertions they had become like petulant children, resisted the urgent though friendly counsel offered them, and in many cases seemed to court rather than seek to escape disaster.

In 1850 and some of the succeeding years the number of the immigrants was greater and their sufferings even more severe. Warned by letters from their friends of the mistakes they had made in overloading their teams, some made an even greater mistake of the opposite kind. Others made the old mistake and suffered its penalty. The number of women and children with every train was greater than in 1849, and the sum total of vital energy proportionally lessened. The cholera prevailed as before, the Indians were equally or even more troublesome, while the wretched outcasts who had been driven from the earlier migrations, formed occasional bands of marauders, who were less merciful and far more enterprising than savages. Frequently they dressed and painted themselves like savages, and could be distinguished from the real Indians only by their greater activity and greater cruelty.

Merciless speculators also preyed upon the suffering travelers. Informed by the experience of 1849 of what might be looked for, they conveyed quantities of flour and other supplies to points on the several trails far beyond the Sierra Nevada, and sold them or refused them to the sufferers according as they were able to pay their extortionate prices. They sold flour and corn meal at one dollar, sometimes at two dollars, and two dollars and fifty cents and coffee and sugar at two dollars per pound, and if their stocks ran low they even charged higher prices. One traveler tells of

having paid one dollar for a plate of very thin soup, and one dollar each for two biscuits; coffee sold at fifty and seventy-five cents per cup, and water at fifty cents per pint. These speculators occasionally bought spare animals, and sometimes even the teams and wagons of the immigrants, when they had nothing else to give for the food of which they stood in need. One man is reported to have traded his team and wagon for fifteen pounds of flour. They also did a profitable business by gathering up the abandoned animals which were still able to travel, and driving them to the nearest place where grass and water could be found, leaving them to recruit there until they could cross the mountains, where they were readily sold at good prices. Those who were willing to trade in this way on the necessities of those who were in distress, easily made money faster than they could have made it in the mines.

Generous and timely arrangements were made in 1850 and succeeding years to assist those who might be in need. Relief societies were formed in Sacramento, San Francisco, Marysville, Stockton, San José, and other towns, which sent their agents with supplies far out on all the trails. Frequent letters and reports from these agents and interviews with newly arrived immigrants were published in Sacramento and San Francisco and these brought contributions from the mining camps and ranches, which the solicitors from the societies did not reach. The story they tell is one of the saddest in the history of the human family.

It began to be known in July that there were many among those who had arrived earliest on the Humboldt

who were in need of help. A public meeting was held in Sacramento late in the month at which liberal subscriptions were made for their relief. In the next issue of the "Transcript" a letter from W. Crum, a newly arrived immigrant, was published in which he estimated the number coming by the overland route at from fifty thousand to one hundred thousand. Not half of these, he thought, would complete the journey without suffering, and one fourth would be compelled to kill their animals for food. He had seen hundreds more than one hundred and fifty miles east of the sink, who were either entirely out of provisions or had but a few pounds left. Forage for their animals was already hard to obtain. The Humboldt was six or seven feet higher than usual, and the grass along the bottom lands was nearly all under water. He had paid some Indians fifteen dollars to gather enough for his cattle and float it across the river to them. Those who would be unable to procure feed for their animals in this way, or some more difficult manner must lose them. He had already seen one man with two small boys one hundred and twenty miles beyond the sink, who had lost all their animals but one, and their sole stock of provisions for the remainder of the journey was three or four pounds of rice. Another man and his wife and children had four horses that were so weak they could hardly haul their empty wagon, and the women and children were compelled to walk. People were already beginning to cut food from the dead animals lying by the road side, and a great increase of sickness might be looked for as a natural consequence.

J. M. Sheppards of Keosauqua, Iowa, who arrived early in August, reported that dead horses were so thick along the trail beyond the sink, that had they been placed in line one might walk on them for half the whole course of the Humboldt. Parties had frequently to leave their wagons and drive their teams ten and fifteen miles to water; in the desert water was selling at half a dollar a pint as fast as it could be measured out.*

James H. McPhetridge who had been in the Carson valley for ten days in August reported much sickness there, and those who were not sick were unable to help those who were. At one of the trading posts several whole families were lying sick in tents, and numbers of people were offering their teams and even their clothing for food, but were unable to obtain it, as the trader had exhausted his stock.†

Things rapidly grew worse. From Great Meadows on the Humboldt William Waldo, agent of the relief committee at Sacramento, reported on September 12th that nearly one-fourth of all those he had met on his journey to that point were on foot, with nothing to eat but the putrefying flesh of the animals found on the trail. On the first day after he reached the desert he had met two men from New York who had been made so sick by this revolting food that they had given themselves up to die. Two others had actually died of starvation. Between the Boiling Spring and Great Meadows he had met but few who had any wholesome food left. Cholera had appeared on the 8th, and people were

^{*}Sacramento Daily Transcript, August 6, 1850.

[†]Transcript, September 3, 1850.

dying by hundreds, particularly in the Carson valley and along the Humboldt. None were now thinking of gold, but all of bread. "They appear," he says, "to have lost their reckoning, and when I tell them that they are yet four hundred miles from Sacramento, they are astonished and horrified; many disbelieve me, as they were induced to believe when at Salt Lake that they were then within four hundred and fifty miles of Sacramento City."

The Indians had stolen a great number of the immigrants' stock and many families had been left from four to six hundred miles from the settlements without teams or means of conveyance. Scarcely a day passed in which there was not more or less skirmishing. A few days before Waldo arrived they had stolen a large number of cattle, the immigrants had collected sixty men and pursued them into the mountains where after a sharp battle the Indians were victorious, and then their depredation upon small parties had been more frequent.

After consulting with many of the more intelligent immigrants, Waldo was of opinion that there were at least twenty thousand people still on the way. Among them were many women with families of children, who had lost their husbands by cholera, and who would never cross the mountains without aid. At least fifteen thousand were already destitute of all kinds of provisions; he thought it would be practically impossible for ten thousand of this number to reach the mountains before the beginning of winter.

Three days later he wrote again from the lower crossing of the Truckee, to which point he had returned

in order to forward information of the urgent need for hurrying forward supplies. The condition of the immigrants was daily growing more wretched. They had eaten so much putrefying flesh and been made so sick by it that unless they could be supplied with bread a great many would die before reaching the mountains. The cholera was still taking them off in large numbers. The station at the lower crossing was surrounded by sick people who were unable to proceed, and they must be provided for. He was at that time issuing about five to eight hundred pounds of beef per day at that point, and giving flour only to the sick. "If people wish to be helpful to those in such urgent need they must hurry supplies forward with the utmost dispatch," he says, "sending them by experienced packers only. A station must be established on the west side of the mountains, and if possible another on the Great Meadows on the Humboldt." He intended to leave for the upper Humboldt on the following day to use his influence with all that were vet from four to six hundred miles east of the mountains, to persuade them to return to Salt Lake, and to help all others who were too far advanced to turn back.

It was already apparent that much more elaborate arrangements for relieving those in distress must be made. "Those emigrants that are yet back several hundred miles must receive relief," he says, "or they must die by starvation; and to whom can they look, but to the citizens of California for their salvation? The land of their homes is too far distant to render them any aid in this hour of distress and danger.

When I left your city the scarcity of money was pleaded as an excuse for not contributing for the relief of the emigrants. If dust is scarce, finger rings and breastpins are not. There are enough of them in California to send bread to every starving emigrant between Green River and the Sierra Nevada Mountains; and I would ask, is it possible for an American to wear a ring without blushing with shame every time his eye falls upon it, when he knows that so many of his countrymen—yes in many instances, his schoolmates, neighbors, and kindred, and once brothers in Christ, are dying for bread?

"Should your committee still be unable to collect funds, I then ask that the committee, city council, or some other body of men, advance to the amount of eight or ten thousand dollars, and forward the amount in flour and little articles for the sick, to this point, and to the summit, for which I pledge my honor, if I live to return where it can be legally done, to set over all my right, title, and interest to real estate in Sacramento City, that has cost me ten thousand dollars. This sum will send between twenty and twenty-five thousand pounds of flour to the summit. This, in connection with the beef, horses, mules, and dead stock, that can be jerked before it putrifies, will save ten thousand human beings from starvation. A man can live very well upon half a pound of beef and a quarter of a pound of flour per day. I again repeat that these people must be relieved or they must die, and that by starvation. Sir, if I were to attempt to describe all the cases of extreme suffering that have come under my observation in the last fifteen days, the account would occupy a quire of paper. Can you believe that the destitution is so general that during an absence of six days from this station, I found but two trains of whom I could obtain a piece of bread and a cup of coffee? I have known a cup of soup, containing not more than one spoonful of flour, to sell for one dollar, and the buyer considered himself fortunate to get it on these terms."

Colonel Ralston reported from the Carson river route that he had supplied a few families who were entirely destitute, with means to cross the mountains, giving in each case twenty-five pounds of flour; but as the supplies furnished him grew scarce, and his private means were exhausted, he was compelled to witness the sufferings of many whom he could not help. Some of these were people of advanced age who were on foot, carrying little bundles of clothing and food. He had purchased some cattle on credit to be paid for in Sacramento, and also some flour at one dollar and seventy-five cents per pound, for those in most urgent need. There were at his station a considerable number who were unable to pursue their journey on foot, and he could not provide transportation for them. They were wholly without food, and must perish unless help was sent them. From the best information he had been able to gather he thought there were ten thousand people on the way between Bear river, Salt lake, and the sink, at least half of whom would be destitute of teams and subsistence before reaching Carson river. About half of them had taken the route around the southern end of Salt Lake and across the desert west of it, where they had lost most of their animals; many women and children had also perished there for want of water and food. After crossing the desert they had still three hundred miles to travel before reaching Carson river, and he was of opinion that few of them would have anything left when they arrived there.*

R. Wilson, whose report is published in the "Alta California" October 6th, says the trail was still thronged with immigrants. The cholera still prevailed and many were dying daily. A man who had come through from Salt Lake with a pack train claimed to have counted fifteen hundred graves by the way. Many immigrants had carried grass for their cattle thirty miles before reaching the Forty-Five Mile desert, and the cattle of those who had not taken this precaution had been compelled to go seventy miles without food.

Along this part of the journey many who had escaped cholera, the Indians, and all other perils became desperate and committed suicide. In one day three men and two women had taken their own lives on the Humboldt. The men were prevented by friends from destroying themselves at the first attempt, but persisted, declaring that death was preferable to life in a condition from which they felt themselves unable to escape; the women were mothers who could no longer witness suffering of their children which they could not relieve.

Nor were the sufferers coming by the southern routes forgotten. Part of the funds and supplies collected in San Francisco, were sent to San Pedro in charge of

^{*}Alta California, September 13th.

Major E. A. Sherman, who had arrived in May with a company from Philadelphia, having crossed Mexico from Tampico to Mazatlan. Under his direction more supplies were purchased, or collected among the old and new residents in and about Los Angeles and Santa Barbara, and sent forward on some three hundred and fifty horses and pack animals to meet the trains coming by every route.

In so much anguish and sorrow, and at so much cost of vital energy, and even in life itself was the California of the Spaniard changed to the California that was to be. We know and can know the story of this change only imperfectly, for while materials from which it may be written are abundant they are notably incomplete. Hundreds of the settlers kept records day by day of their experience; other hundreds wrote books while the memory of what they had seen and suffered was still fresh in their minds, and many others in later years told the story of their trials to faithful chroniclers, or wrote them for their children; yet all these were but a handful compared with the great multitude whose stories are, and must remain forgotten. Their children and their children's children however, will remember with pride that they had a part in and saw something of this, the grandest movement of the human family since the world began.

Various efforts have been made to ascertain with some degree of definiteness, the number of those who came in 1849, and succeeding years, but always with very unsatisfactory results. The census of June, 1850, though taken under great difficulties, showed a total population of 92,597, and the returns from Santa Clara,

San Francisco, and Contra Costa counties were lost; these would perhaps have added 20,000 to the total. making approximately 112,000, all of whom except the 14,000 who were here before 1848, had come since the discovery of gold. It is estimated that 2,000 arrived from Oregon before the end of 1848, and a larger number came from Mexico and the west coast of South America: so that the total population at the beginning of 1849 may have been near 20,000. But a large number of the Oregonians returned north before June, 1850, and nearly all the Mexicans also went home. Then those who had been successful in the mines early began to return east, both by the overland and Panama routes, and a still larger number who had not succeeded, but had become broken in health and spirits went with them. The number of these was so great that they soon became noticeable in the principal cities. The "New York Tribune," near the close of January, 1849, said a resident of that city "coming back after a three months' absence would be puzzled at seeing a new class of men in the streets, in a peculiar costume-broad felt hats of a reddish brown hue, loose rough coats reaching to the knee, and high boots. Californians throng the streets—several of the hotels are almost filled with them; and though large numbers leave every day there is no apparent diminution in their numbers."

The custom house records, so far as they escaped the disastrous fire of May 4th, 1851, and were not made illegible by water and mud, show that 549 vessels of all classes carrying passengers arrived at San Francisco between March 31st and December 30th, 1849.* A list of them furnished by Edward A. King, acting surveyor and harbor master, to the Society of California Pioneers, and printed in its report for 1874 shows that they brought a total of 30,024 passengers. The number who came overland was vastly greater, but how much greater nobody ever knew or will know. The senators and representatives in their memorial to congress estimated the number at 25,000; Mr. Hittell in his history of California, (vol. 11, p. 700) places it at 42,000, of which 33,000 were Americans, and Bancroft's estimate is the same. The actual number was probably larger.

It has been and still is customary to regard this great movement of population as wholly or largely due to the gold discovery. It is still customary to speak of the immigrants of 1849 and the 50's as gold hunters, and they were such to some extent; but they were something more and better. They were primarily home-hunters, as is proven by the fact that some brought their families and all their worldly possessions with them even in 1849, and a much larger number in later years. Their coming was accelerated unquestionably by the discovery of gold; but it is not to be forgotten that the great westward movement by which all the coast states were settled, began in 1841, and was steadily increasing year by year before it was guessed that more gold would be found on the western than on the eastern side of the continent. People were hungry for land—land to be tilled by their own hands, and the product of which they might

^{*}No record appears to have been kept of those arriving before the date first given.

enjoy without asking leave of, or paying tribute to any; and while their government still owned vast areas of it that were unused, and as vet of no service to itself or others, it had made no provision by which those who could best use it could get it. The Linn bill was still pending in congress, and while when presented it was intended to apply only to Oregon, it might be so amended as to apply also to California before it became law; if it did not the mines might afford opportunity to get gold enough to buy what they were seeking. Mining, if they resorted to it at all, was to be only an expedient. The mere gold hunters were few and did not long remain. The greater number came to do each his part and in his own way, of the great work that has since been done—to plant and to build, to redeem the desert from desolation, to bridge the continent with iron highways, to break down the barrier by which nature had separated the oceans, to open the way to the Indies which Columbus had failed to find in his day, and complete that more perfect union of which men had only dreamed before their own.

CHAPTER VI. THE CONSTITUTION



EFORE these multitudes of settlers had started by either route from the eastern to the western side of the continent, the people of California had taken the first steps toward organizing a government of their own; and by the time the last weary pilgrims of 1849 had crossed the Sierra Nevada, they had formed and adopted a constitution, elected and made ready to install a governor, legislature and court officers, choose senators and ask to be admitted to the Union. They were to be the first to erect a state and get it admitted without a previous territorial or colonial probationary experience. The people of Tennessee had tried it after North Carolina had cast them off in 1784, and failed; those of Utah were trying it and would fail; California would succeed, for destiny and the enterprise of its pioneers had so decreed from the beginning.

The difficulties which the American settlers had experienced before gold was discovered were aggravated after that event, and it early became apparent that they must soon become unendurable. The absence of the laws to which they had been accustomed, and of all means to make laws applicable to the peculiar conditions in which they were placed, made a situation which people accustomed to self-government did not relish, and to which they were not likely long to submit. While the territory had been held as a Mexican province, under military control, it had been irksome enough to be governed by Mexican laws, even though they were administered by American officers; but after it had been ceded to the United States by the treaty of peace, and the treaty had been ratified, they found it difficult to understand why this condition of things should continue. Agitators who talked of "military despotism" were not wanting, and although there was no despotism to be complained of, except that the governors were military men and steadily persisted in administering the Mexican law as they were bound to do, a spirit of protest, if not of resistance, began to take form and steadily increase in strength. The country was now American; why should it not be governed by American laws and American methods?

The trouble was not with the military governors but with congress. The trouble with congress was not that its members lacked information about the urgency of the situation in California, but that its action was impeded by a problem far greater than any California presented. The slavery question, which seemed to have been settled by the Compromise of 1820 when Missouri was admitted, and when it was agreed that the line of 36° 30′ should forever divide the free and slave territory of the Union, had been revived, and made acute again in 1835, by petitions from various bodies for the abolition of slavery in the District of Columbia, by resolutions demanding the exclusion of anti-slavery literature from the mails, and by various other devices. Discussion of it had been intensified when in 1847, after the war with Mexico had begun, it was proposed to arm the president with authority to negotiate for peace, and to provide him with \$3,000,000, presumably to procure new territory in the settlement; and David Wilmot of Pennsylvania had interposed his famous proviso, that neither slavery nor involuntary servitude except as a punishment for crime whereof the party should have been duly convicted, should ever exist in any territory so acquired. This proviso, although expressed in almost the exact terms by which slavery had been forbidden in the territory ceded by Virginia to the confederacy before the adoption of the constitution, and generally accepted and approved at that time and thereafter, provoked a heated debate, which increased in bitterness as time passed and it proceeded. The proviso was adopted in the house, but rejected in the senate, and was thereafter reproposed as an amendment to every measure affecting the territory acquired, and even to appropriation bills, until Mr. Lincoln, who was then serving his only term in congress, was afterward able to say that he had voted for it about forty times.* The discussion of it, and the bitterness of feeling it aroused, defeated all effort to legislate for California while congress remained in session after the ratification of the treaty in May, 1848, and at the succeeding session in the following winter, although President Polk twice called attention to the urgent need for it.

Meantime the president and his cabinet held that the government already existing in California was a lawful one, and must continue until congress should provide something better. While they admitted that by the treaty of peace, the military government had ceased to derive its authority from the laws of war as recognized by the practice of civilized nations, it had been continued because government of some kind was necessary. It was in existence at the close of the war, in full operation; and the consent of the people to its continuance was, they thought, "irresistibly inferred" "from the fact that no civilized community could possibly desire

^{*}Speech at Peoria in 1854.

to abrogate an existing government, when the alternative presented would be to place themselves in a state of anarchy, beyond the protection of all laws, and reduce them to the unhappy necessity of submitting to the dominion of the strongest."

Senator Benton, however, held the opposite view, and in a letter dated August 27, 1848, and addressed "To the People of California," informed them that the temporary civil and military government established as a right of war was at an end. The edicts of the military governors, so far as they went to change the laws of the land, were null and void, and had been so from the beginning; for the laws of a country remain in force until altered by proper legislative authority, and no such authority had altered the laws which were in force at the time of the conquest. As congress was not likely to act in the near future, he advised the people to meet in convention, provide for a cheap and simple government of their own, and take care of themselves until congress should provide for them in the usual way. He strongly counselled moderation, the enactment of only the most necessary laws as additions to the Roman law, which was the basis of that under which they were living and which he thought would be found sufficient to meet most of their needs. He invited their attention to the Oregon Land bill (the Linn bill) which had already passed the senate, which he believed would eventually become law, and advised them to act with that prospect in view, selecting claims in regular rectangular form, taking care to avoid interference with one another and with old claims considered good or even probably good.

The senator also reminded the people of California of what those of Oregon had done in the way of organizing a provisional government, and that he had two years earlier written a letter advising them to submit to and support that government until congress should replace it by another. He had at that time, he said, promised them eventual protection and now made the same promise to California in the name of many others as well as himself.

This, coming from a senator of Benton's standing and influence, and one who had so long and so ably championed the interests of the West, was reassuring, and the advice offered was so agreeable to most people then in California that it was generally approved. The Benton theory became popular, as against that of the administration, although the de facto government as the president called it was not resisted. But people were anxious for a government of their own and began to take steps toward its organization. On December II, 1848, a public meeting was held at San José which recommended that a convention should assemble at that place on the second Monday in January to form a constitution. A similar meeting was held at San Francisco on December 21st, which appointed a committee to draft resolutions to be presented at another meeting held on the 23d. Both meetings were largely attended and the resolutions in favor of a convention were loudly applauded and adopted. Five delegates to represent the city were named and March 5th was recommended as the date for the convention. At Sacramento meetings were held on January 6th and 8th, at which Peter H. Burnett, who had but recently arrived from Oregon, presided. He was familiar with what the people of that territory had done in the way of organizing government for themselves and had been elected chief justice there just before leaving for California. The meeting recommended that five delegates to the proposed convention should be elected on January 15th, and a committee was appointed to correspond with other districts and urge similar action. Subsequently meetings were held at Santa Cruz, Monterey, and Sonoma where similar action was taken. Everywhere the convention was favored but there was a difference of opinion as to when and where it should be held. It had soon appeared that the date fixed by the San José meeting was too early; later it was found that all the districts would not choose their delegates in time to meet on March 5th, so it was generally agreed to postpone until May 6th. Before that time arrived the date was again postponed to the first Monday in August.

These several postponements and the hope that congress, which was still in session, might take or had taken some action providing a government for California, gradually lessened interest in the proposed convention and other postponements might have followed had not other events occurred, raising new questions or reviving and intensifying old ones, and a man appeared who would direct affairs calmly and resolutely through all opposition and adverse criticism to the conclusion which all so earnestly wished. This man was Brigadier-General Bennet Riley, who arrived in Monterey on April 12, 1849, and relieved Mason on the 13th. Riley had served for many years on the frontier,

had lately won distinction and promotion in Mexico, and was as courageous in administrative matters as on the battle field. He saw his duty as a civil officer as clearly as he had ever seen that of a soldier, and proceeded to administer the office of governor with the same promptness and firmness that he would have shown in a purely military matter. One of his first acts was to reappoint Halleck secretary of state, thus securing the counsel of that excellent officer, who by this time had carefully studied the Spanish and Mexican archives and codified the laws then in force. With his assistance it was not difficult to take up the government as Mason was leaving it and carry it forward.

One of the first questions to claim the attention of the new governor was a perplexing one, but he decided it in accordance with law, though in opposition to the popular view, and was for a time much criticized in consequence; but when the progress of events demonstrated that he was right, the first popular verdict was reversed and complaints about "military despotism" gradually declined.

The discovery of gold had given a tremendous impulse to the growth of San Francisco and in July, 1848, it had a population of nine or ten thousand people. The newcomers were of all nations, kindreds, and tongues, as well as of all conditions and degrees and all intensely earnest to become suddenly rich. They formed a population that might at any moment, and soon would, require the ablest, best organized, and firmest government to keep them in order and make life and property secure; but the only government they had was that of an alcalde and ayuntamiento or a town council. This

council consisted of six influential citizens whom Alcalde George Hyde had called to his assistance in July, 1847, and Governor Mason had approved his action, provided they should be elected by the people. They were elected in September to serve until the end of 1848. In March, 1848, Hyde, who was a man of some temper which kept him in difficulty much of the time, resigned, and John Townsend served in his place until the end of August when a special election was held and Reverend Thaddeus M. Leavenworth was chosen. On December 27th a new ayuntamiento was chosen, but the old one declared the election invalid on the pretense that some illegal votes had been received and ordered a new one. This was held in January, when less than two hundred votes were cast—hardly one-fourth as many as had been polled in December. Two sets of councilmen were now claiming to be the legal council. The old council favored those chosen in Ianuary while a majority of the people evidently preferred those elected in December and demanded that they be installed in office. No decision of the matter was reached and on February 12th, in the hope of allaying the excitement which was daily increasing, a public meeting was held in the plaza, which was then beginning to be known as Portsmouth Square. At this meeting Myron Norton, afterward prominent in the constitutional convention, presided, and ex-alcalde Hyde presented a plan for a new body to be composed of fifteen members, to be known as the legislative assembly, with a speaker to preside at its deliberations, and which was to have power to pass laws not in conflict with the common law or the constitution of the United

States. This plan was approved by the meeting, and an election called for February 21, at which the fifteen councilmen and three justices of the peace, which Hyde's plan had also called for, were elected. Thereupon the members of the two contending councils resigned, as the meeting had recommended, and the legislative assembly was organized, with Francis J. Lippitt, an ex-captain in the Stevenson regiment, as speaker.

Application was now made, on March 10th, to General Persifer F. Smith, who had just arrived by the California, to recognize the assembly as the only lawful governing body in San Francisco. Smith took plenty of time to reply, and perhaps consulted Captain Halleck the secretary of state, who was also a good lawyer as events showed and had been of much service to Governor Mason, as he was to be to Governor Riley. Smith's letter was dated March 27th, and in it he set forth the views of the president and Secretary Buchanan in regard to the situation in California and declared that while he felt the greatest interest in the welfare of the people of San Francisco, he believed he would be "doing them a great injustice if he did not use every effort to prevent the intricacy and confusion that would inevitably result from establishing even the best government on a false basis."

The general's letter was not very graciously received by the assembly which resolved to assert its authority without his recognition. It abolished the office of alcalde and ordered Leavenworth to turn over the records of his office to the sheriff it had appointed. This Leavenworth refused to do and appealed to General Smith, who assured him that he was still alcalde and advised him to retain possession of both his office and its records. He also reminded him that Colonel Mason was still the civil governor of the territory and would apply whatever remedy the situation demanded. But Mason had some time before asked to be relieved and before the matter reached him, Riley had appeared.

Riley disposed of it promptly and decisively by denouncing the legislative assembly as an illegal body and warning all good citizens against giving it countenance, either by paying taxes to or aiding or abetting its officers. Members of the assembly denounced the governor in return; claimed that they derived their authority directly from the people and resolved to contiue to act until the people should direct otherwise.

An issue was now made in resolving which the people of San Francisco must determine whether they would adopt and act upon the Benton theory or that of the president and Secretary Buchanan. The Benton theory was by far the most popular because it assumed that "military despotism" was at an end and that the people were invested with all their inherent rightsparticularly the right to govern themselves. But upon calm reflection it was perceived that there had been no military despotism of which they could complain. The chief objection to the system was that the military governors had not been chosen by themselves. They had not oppressed them in any way. They had administered the law as they found it, firmly though considerately, and where their government had failed to give satisfaction it was generally for lack of law

rather than because the law was oppressive or unjust. The governors were not blameworthy; the law, or lack of law suited to the new and peculiar conditions, was at fault.

Under the Benton theory the law remained—was still in existence—or in his exact words, "the laws of California are still what they were and are sufficient for your present protection," but the machinery for their enforcement had become obsolete and nonexistent when the treaty was ratified. There was a government without governors; a civil polity, sufficient with a little amendment for present needs which they were urged to adopt, but with no machinery to put and keep it in operation, until it could be created anew. There were, for example, laws constituting courts, defining crimes, prescribing penalties therefor, and with rules for the trial of accused parties, but with neither judges nor court officers to administer them. If that, in fact, was the condition, or if sober men in the mining regions believed it was the condition, it is not surprising that they were gravely discussing about their camp fires whether murder was really a crime in California as it is said they were.

Mason had been considering the matter of calling a convention for the purpose of forming a government, either state or territorial, before Riley relieved him and on turning over the office advised his successor to issue the call at an early day. It was plain that it could not long be deferred and ought not to be; and neither Mason nor Riley was inclined to defer it. In the nature of things their government could not long continue even if they had desired to continue it; for

congress might at any time extend the customs laws to California,* and as soon as a collector should arrive, their revenue would cease. But it was not advisable to issue a call until it could be known whether congress had taken definite action, and besides, there were other important matters to be considered. All parts of the territory for which a government was to be formed ought to be represented and in proportion to the number of their inhabitants. The delegates ought to be chosen at a fixed time and under uniform regulations. Sufficient notice must be given, preparation made for receiving, counting, and reporting the votes polled, and for issuing certificates of election; a place for holding the convention must be selected and arrangements made for its accommodation.

It was not learned until June 1st that congress had adjourned without taking any action to provide either a territorial or other government for California, and on June 3d Riley issued his proclamation calling a convention. It was to be composed of thirty-seven delegates, of which the district of San Diego was to elect two, Los Angeles four, Santa Barbara two, San Luis Obispo two, Monterey five, San José five, San Francisco five, Sonoma four, Sacramento four, and San Joaquin four. The boundaries of these districts, the qualifications of voters, and the method of taking and making return of the votes were described, and the date of holding the election fixed for August 1st. The convention was to meet at Monterey on the first day of September.

^{*}It had in fact already done so by the Act of March 3, 1849, though it was

The proclamation set forth at some length the administration theory in regard to the de facto government; explained that it was not a military government, as some supposed and insisted, as no military officer other than the governor had anything to do with it; and expressly declared that while the commanding general issued it, he did so in his capacity as civil governor, and not as a brigadier-general. The laws of California, not inconsistent with the constitution and treaties of the United States, were still in force, and so must remain until changed by competent authority; as these called for judges of the superior court, prefects and sub-prefects, alcaldes, justices of the peace, and town councils, some of whom, under the law, must be appointed by the executive. The proclamation called upon the people to select candidates for judges, prefects, and sub-prefects, and promised that those chosen should be appointed. These, as well as the alcaldes, and other officers who were to be elected at the same time were to serve only until January 1, 1850.

The proclamation thus ignored the delegates already selected, if not elected by the meetings held at San José, San Francisco, Sacramento, and other places; insisted on the observation of laws already in force, and asked for the election of certain officers known only to those laws; and for these reasons it was received with disfavor in some quarters. There was particular opposition to it in San Francisco, where on the evening of June 19th, a mass meeting was held in Portsmouth Square. The governor was severely criticized by the speakers and resolutions were adopted declaring that the people alone had the right to organize their govern-

ment; that Riley's call was not binding on them; that delegates ought to be chosen on the authority of the people themselves. A committee of five was appointed to confer with people in other districts and arrange a plan to originate a convention without the governor's intervention.

This idea had been popular in the mining regions where gold hunters from Oregon were most numerous. It was estimated that no less than two thousand of them had arrived during the winter of 1848-9 and the following spring and they formed a strong faction. There were aspiring politicians among them, like Burnett, Hastings, and others, who took an active interest in all public meetings; in their speeches told admiringly how the earliest settlers along the Willamette had organized a provisional government without asking leave of anybody but themselves; and how they had successfully maintained it against all opposition. They made no note of the fact that conditions there were entirely different at the time—that the sovereignty of the territory was in dispute; that our own government had never asserted any authority in it; that the people there were left entirely to their own devices, and must either govern themselves or have no government at all. Burnett, who was a lawyer, and a reasonably astute politician, failed to note these differences, and made an active campaign for the Oregon idea, going to San Francisco snd elsewhere to advocate it.

The advocates of independent action seemed for a time to have a majority of the people with them. But calmer counsels prevailed. After a little reflection it began to appear that nothing could be gained by the

course proposed. In San Francisco Leavenworth had resigned and little was left to quarrel about. The need for a convention was urgent; the governor had opened the way for it. The only issue between him and them was one of theory. To quarrel about such a matter was idle since it would almost certainly delay if it did not for a time defeat what was so urgently needed. Perhaps also, it occurred to those who were wisest that without Riley's government they could have no government until they could organize one which would require some months, and the country was in no condition to be without government even for a day. Then, too, the governor had a large fund under his control, which had been collected for their benefit and ought to be used for it, but which they could not hope to have applied to defray the expenses of a convention that he would certainly regard as illegally organized. Finally it would be but a poor recommendation of their ability to govern themselves, if, when they came to ask recognition for their government, they should be obliged to explain that they had set it up in defiance of the only government that had been provided for them, for no better reason than that they had disagreed about a mere matter of theory.

During the early summer Riley made a tour of the mines and was everywhere well received. He took pains to explain the situation wherever there seemed to be need to do so, to urge the election of delegates, and particularly the choice of officers to preserve order and carry on the affairs of government until the state could be organized. On the other hand, the committee appointed by the meeting in Portsmouth Square

issued an address on June 18th, in which—without admitting Governor Riley's authority to call a convention—it recommended, as a matter of expediency, that the elections should be held on the day he had appointed, and that the districts should elect the number of delegates he had assigned them.

Elections were held in all the districts on August 1st and the delegates began to arrive in Monterey on the day appointed for the assembling of the convention. The town was but poorly provided to entertain them. There was nothing like a hotel, nor very much resembling a restaurant in it. Its twelve or fifteen hundred inhabitants were hospitably inclined, as they had ever been, though few could entertain strangers for the month or more that the convention was likely to be in session, without serious inconvenience. The houses of Thomas O. Larkin, late United States Consul, Don José Abrego, who had been treasurer when Pio Pico was governor, and Don José Soberanes, were the most commodious in town, and as comfortably provided as any in the territory; but the Californians were noted for having large families,* and even those whose houses were largest, had but little room unoccupied. The home of Doña Angustias Jimeno, that daughter of Captain José de la Guerra of Santa Barbara whose beauty and varied accomplishments Dana had praised so enthusiastically a dozen years earlier, was the center of attraction. She was now about thirty-five years of age, and had a daughter almost or perhaps quite as

^{*}One man was pointed out to Bayard Taylor in Monterey, as the father of thirty-six children—twenty by his first wife, and sixteen by a second; Señor Abrego had twelve children, and Mr. Hartnell, who was translator for the convention, twenty-one.

DOÑA ANGUSTIAS DE LA GUERRA

Daughter of José Antonio de la Guerra y Noriega; born at San Diego, June 11, 1815; died at San Francisco, June 21, 1890; married, first, January 12, 1833, Manuel Jimeno Casarin. Don Manuel died in 1854, and on October 31, 1856, Doña Angustias married, second, Dr. James L. Ord, United States Army, who came with Company F, Third Artillery, in 1847. Her baptismal name was Maria de las Angustias Josefa Antonia Bernabé, and she was one of the most beautiful and accomplished women in California. Her kindness and charity in aiding the sick and distressed; her nobility of character; activity of intellect; instinctive refinement, and winning grace of manner, drew all hearts to her. When the young lieutenant, Colville J. Minor of the Third Artillery, was stricken with mortal and lingering illness-a stranger in a strange land-Doña Angustias took him to her own house, watched over him day and night with all a mother's tenderness and wept over him when he died with all a mother's grief.

The picture is from a miniature in possession of a daughter, painted when Doña Angustias was 55 years old, and photographed for this work.

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that the elections should be held on the day he had appointed, and that the distri

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attractive as herself. Bayard Taylor says her house was regularly given up, in great part, to the American officers who visited the port, and they were always welcome guests at her table. Here the leading members of the convention, both American and Spanish, were frequent visitors. Mr. Larkin made a point of taking one member to lunch and one to dinner with him every day while the convention sat, although his wife was an invalid. Señor Abrego frequently invited a number of guests for an evening. His home held a piano—the only one, apparently, in town—and one evening when Bayard Taylor was of the company, he heard a lady from Sydney, Australia, play Non piu Mesta with a great deal of taste.

Everybody attending the convention, whether as delegates or otherwise—except a very few who had come by ship—had come to Monterey on horseback, and had brought their blankets or Mexican serapes, rolled in which they had slept under the trees on the way, and could, if need be, sleep in the open while they remained. All were not required to do so, however, though perhaps some did. Bayard Taylor, who arrived about the middle of the session, found opportunity to spread his blanket on the floor of the quartermaster's warehouse, an acquaintance furnishing that privilege, but he soon withdrew to the friendly shadow of a pine tree on Point Pinos, where his slumbers were less disturbed by crawling pests. It is quite possible, and indeed almost certain, that some of the constitution makers took their rest amid similar surroundings, at least for a time after reaching the capital. It was not necessary to do so during the whole session, for Taylor says that during his stay of five weeks, "several houses were built, half a dozen stores opened and four hotels established, one of which was kept by a Chinaman." The first hotel to be ready had no roof on it when the first of the delegates appeared. It was built by an Italian tinsmith who had arrived only five years earlier with no capital. He had borrowed a few sheets of tin, or obtained them on credit, and began the manufacture of tin cups, which had sold readily and at good profit, particularly after the gold discovery. He was now rated as worth \$50,000, and his hotel, as soon as it was habitable, rented for \$1,200 per month. It was called the Washington House, and was kept by an ex-private in the Stevenson regiment. Some of his guests paid as much as \$200 per month for single rooms.

Several restaurants sprang up during the convention. Their proprietors were for the most part Mexicans and the cooks Indians. They furnished meals at \$1 each. The variety of dishes supplied was not large but the quantity was abundant. Usually, according to Taylor, "there was an olla of boiled beef with cucumbers and corn, an asado of beef and red pepper, a guisado of beef and potatoes, and two or three cups of execrable coffee." Upon such meat did these early statesmen feed while making California's first constitution.

On Saturday, September 1st, the day appointed for beginning the session, only ten delegates had arrived, but on Monday a quorum was present and the preliminary work of the convention began.

It assembled in that new stone school building which Reverend Walter Colton, the first American alcalde in California had erected by using "the labor of convicts, the taxes on rum, and the banks of the gamblers."* Its lower story was divided into school rooms and above them was a hall thirty by sixty feet in size designed for public meetings. Across this a temporary railing had been thrown which divided the members from the spectators. Inside this railing the members were seated at four long tables, while the presiding officer occupied a rostrum at the further end, over which were suspended two American flags, and what Bayard Taylor described as "an extraordinary picture of Washington, evidently the work of a native artist." Light was furnished for the evening sessions, which were held with some regularity, by tallow candles held in candlesticks—one or two of which are preserved in the museum at Golden Gate Park—and in chandeliers of no very elaborate construction. A door in the middle of the hall opened on a small square balcony supported by four pillars, to which the members occasionally retired to get a breath of fresh air and enjoy the view of the harbor.

The delegates were notably young men. Seven were under thirty, the youngest, J. M. Jones of San Joaquin being only twenty-five; only four had passed fifty, the oldest, Don José Antonio Carrillo being only fifty-three. A large number were only a little over thirty—the average age of all being below thirty-six years and six months.

Six of the forty-eight members were native Californians, and three others though born abroad had lived a long time in California, married California wives, spoke the Spanish language like natives, and did not

^{*}Three Years in California, by Reverend Walter Colton.

readily understand English. Abel Stearns, an American, had been in the country twenty years, Hugo Reid, a Scotchman, sixteen years, Thomas O. Larkin, also an American, sixteen years, and John A. Sutter, a Swiss, ten years. Stearns and Reid had California wives.

Twenty-eight of the other members had come to the state before the gold discovery, and only nine had arrived since that event; four of them only four months earlier. Twenty-two had been born in northern states, though three of them had lived in the south for longer or shorter periods before coming west; fourteen were natives of southern states, only one of whom had come to California from a free state. Twelve of the forty-eight were lawyers, ten were farmers, and seven merchants; one still belonged to the army, and one to the navy, while several had been officers in the Stevenson regiment.

Among the ablest and most influential members of the convention, were Halleck and Myron Norton, who usually sat together. Both were lawyers, and both were members of the special committee, charged with the duty of presenting a first draft of the constitution. Norton, although only twenty-seven years of age, was its chairman. Neither spoke often. Rarely, except when some matter required to be stated clearly, or divested of some misleading construction in which it became involved during the debate, did either claim the floor, and then what he had to say was said without attempt at oratorical display. On the other hand, Botts of Monterey spoke on every subject, and sometimes narrowly escaped being tiresome, though about things of real importance he reasoned forcefully. Gwin

was the next most frequent speaker. It had been supposed that he would be the special champion of southern ideas and southern interests in the convention, but on the few occasions where those ideas and interests were most closely involved in the debates, his efforts were directed toward finding a speedy and practicable solution of the problem, rather than a particular one. Edward Gilbert of San Francisco, editor of the "Alta California," and J. M. Jones of San Joaquin, spoke less frequently though always forcefully, and more rarely still Shannon, Sherwood, and Snyder of Sacramento, Hoppe and Dimmick of San José, Vermeule and Wozencraft of San Joaquin, Lippitt, Price, and Steuart of San Francisco. John McDougal's voice was rarely heard except in the way of caustic comment, or cynical suggestion, and Larkin, Stearns, and Sutter rarely spoke The Californians sat together at one of the tables, and generally voted together. They seldom had anything to say, probably because of the difficulty of speaking through an interpreter, though De la Guerra, by offering and supporting an amendment to the section relating to the right of suffrage, and Carrillo in promptly resenting what he thought to be a slighting allusion to the Californians, showed that they were paying close attention to and sufficiently understood all that was said and done.

Only once during the entire session was the harmony of deliberation seriously threatened, and that was when Tefft of San Luis Obispo, in replying to a mild criticism of the special committee by Jones of San Joaquin, quoted in no very relevant way, a saying of Junius, that: "There are men who never aspire to hatred—who

never rise above contempt." Jones immediately asked that the remark might be taken down, so that the convention might take such action with regard to it as it might think proper. Some further exchange took place, which seemed likely to lead to difficulty, but Botts, Gwin, and others intervened, and with the aid of the chairman, the incident was brought to a close in a way that left no permanent ill feeling.

At the first meeting, when only ten members were present, Dimmick of San José had been chosen temporary chairman, and Tefft of San Luis Obispo, temporary secretary; and they continued to serve until the permanent officers were elected. At the next meeting, on Monday, September 3d, a quorum was present, and Reverend Samuel H. Willey being observed among those outside the rail, was invited to open the proceedings with prayer, which he did. Later it was resolved to begin the deliberations of each day in the same way, and Reverend Mr. Willey and Padre Ramirez, pastor of what had been the presidio church in Pedro Fages' time, were invited to officiate on alternate mornings.

Captain Halleck, secretary of state, and also a delegate from Monterey, at the opening of the first day's session, read a communication from the governor transmitting the official returns from the elections held in the several districts, inviting attention to the fact that the population of some districts had materially changed since his proclamation had been issued, and recommending that additional delegates be received from those where the increase had been the largest. This recommendation was heartily concurred in, and the convention as organized was composed of forty-

SAMUEL HOPKINS WILLEY IN 1849

Born at Compton, N. H., March 11, 1821; died at Berkeley, Cal., January 21, 1914; came to California on the first steamer California, landing at Monterey, February 23, 1849. He was chaplain of the Constitutional Convention of 1849, alternating with Padre Antonio Ramirez. Dr. Willey was one of the founders of the University of California and held its degree of doctor of laws. He was a graduate of Dartmouth College and a well known pastor, educator, and historian.

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eight instead of thirty-seven delegates—the increase coming principally from Sacramento, San Joaquin San Francisco, San José, and Los Angeles.

Party considerations had exercised little, if any, influence in the elections. So far as reported no candidate had been asked what party he voted with or whether he belonged to any. At many of the polling places the voters knew nothing of those they voted for except that they had been proposed either by themselves or others; but as the time to organize the convention approached, some attempt at manipulation began to be suspected, though there is no evidence that any was attempted. It is now known, and possibly was then known or suspected, that William M. Gwin had come to California to get himself elected senator.* Though he had been in California less than four months, he had taken an active interest in the public meetings held in San Francisco and in the election of delegates; had made speeches at Sacramento and other places, and if he had not directly made his aspirations known, had made it possible to guess them. It was suspected that he hoped to dominate the convention; that his first object would be to make California a slave state, and that as a means to that end, he would seek to be chairman. But if this was his purpose he used none of the arts of a politician, such as have been so severely censured in later years, to achieve it. He made no trades or combinations, no promises to help other delegates secure the adoption of their favorite ideas, if they would support his own. In fact, as a political manipulator he was never successful. His

^{*}Gwin's Memoirs, MS.

method in the convention was to impress as many as possible with the value of his experience, to conciliate all who inclined to oppose, and win by craft rather than by open contest.

He was easily beaten in the contest for the chairmanship, Dr. Robert Semple of Benicia being chosen on the first ballot. Semple was a man of good address and striking appearance, being six feet six inches tall. He had been one of that party of young Missourians who had come overland on horseback with Lansford W. Hastings in 1845. He was both a dentist and a printer, and had been Colton's partner in the publication of the "Californian." He had also taken a prominent part in the Bear flag episode, and been a member of the guard which escorted General Vallejo to the Sacramento and imprisoned him in Sutter's fort. And now, having been elected chairman, he was escorted to the place of honor by Vallejo, who had been his prisoner and Sutter, to whom he had delivered him over as his jailer. Good feeling had long since been established between the one time prisoner and his captor, and they had, for two or three years past, been partners in the town site of Benicia.

As several members of the convention, particularly among those from the south, were Spaniards and Mexicans, and did not readily understand English, it was voted to employ an interpreter and translator for their benefit, and W. E. P. Hartnell was chosen for the position. William G. Marcy, a son of the late secretary of war, and recently an assistant in the quartermaster's department in Monterey, was chosen secretary, with

Caleb Lyon and J. G. Field as his assistants. J. Ross Browne was employed as reporter. A sergeant-at-arms and a doorkeeper were also chosen.

Nearly two days were consumed in discussing rules and methods of procedure. Most of the delegates, because of lack of experience in deliberative bodies, had a most indefinite idea of the difficulties they were likely to encounter, particularly because there were no printing materials in Monterey at the time, and very few books that were likely to be helpful. Some seemed to think that satisfactory progress might be made by a general discussion, in which each member might suggest anything that occurred to him as a proper part of the constitution; but most understood that little could be done except through a committee or committees. Some wanted one committee only, believing that a single body would prepare a more symmetrical and complete instrument than several, while others wanted the work divided so that more might have a part in it, and fearing that the few members who might compose a single committee would have more than their just share of influence. Price suggested six committees, each of which was to prepare and report a specified part of the work, a method which has sometimes been followed, though resulting usually, if not invariably, in an inharmonious and unsatisfactory document.

Gwin had foreseen the difficulty and had prepared enough copies of the constitution of Iowa, printed at his own cost, to place one in the hands of every member. He had chosen that instrument because it was one of the most recently adopted, and would, he thought, best serve for a model. Others cited the new constitution of New York as also having been recently made, and recommended it as a model though no extra copies of it had been prepared. Still others showed during the discussion that they were familiar with the constitutions of other states, particularly those of Wisconsin, Louisiana, Mississippi, and Arkansas. Gwin proposed that his printed copies of the Iowa constitution should be referred to the committee of the whole for consideration and amendment. If a general committee, or a number of committees should be charged with preparing a preliminary draft for the convention to work upon, how were the members to be provided with copies of it in the absence of a printing press? How could they proceed without copies?

In answer it was pointed out that whatever was done, the preliminary matter, whether reported from a committee, or adopted from a printed book, must be translated into Spanish so that the Spanish speaking delegates might understand it. As the committee would probably report no more than one article at a time it would be easy to translate and prepare copies for them in advance, and copies in English might be made at the same time for all other members.

It was at length decided to have one general committee composed of two members from each district, to be appointed by the chairman, and the following were named:

Gwin and Norton of San Francisco; Foster and Pedrorena of San Diego; De la Guerra and Roderiguez of Santa Barbara; Tefft and Covarrubias of San Luis Obispo; Dent and Halleck of Monterey; Dimmick and Hoppe of San José; Vallejo and Walker of Sonoma; Snyder and Sherwood of Sacramento; Lippincott and Moore of San Joaquin.

The committee organized by electing Myron Norton of San Francisco as chairman, and on the morning after its appointment, was ready with its first report. This was the bill of rights, consisting of sixteen sections, some of which had been copied from the amendments to the constitution of the United States, and some from the constitutions of Iowa and New York. While the report was under consideration, five new declarations were added to it, making the number twenty-one in all. Several amendments were proposed and rejected—one of these forbade the infliction of the death penalty, and another prohibited the owners of slaves from bringing them to the state for the purpose of setting them free.

It was while this article was under consideration that W. E. Shannon, a delegate from Sacramento, moved an amendment that, to the astonishment of many, was adopted unanimously. It was that "neither slavery nor involuntary servitude, unless for the punishment for crimes, shall ever be tolerated in this state."

From the commencement of the Mexican war, it had been believed by many, and openly charged by some, that it had been brought on deliberately by the Polk administration for the purpose of acquiring territory in which southern planters could find new fields of employment for their slaves, and out of which new slave states might be created. This suspicion, if it had been nothing more, had increased the opposition to slavery exten-

sion and intensified the feeling in favor of abolition. Discussion of it in and out of congress had occupied the public mind to the exclusion of other subjects; it had deferred organization of a territorial government for California, nearly defeated it in Oregon, and was seriously threatening to disrupt the Union.

California was the most valuable part of the territory acquired as the result of the war. To exclude slavery from it might defeat its admission to the Union; to admit it was more certain to do so. The compromise line of 36° 30' adopted in 1820, had, of course, applied only to the territory then included in the United States; it had not yet been extended through that acquired from Mexico, and could not be, for the opponents of slavery would not consent to it, and its advocates were not unitedly in favor of it. But an expedient suggested by Senator Cass of Michigan during the debates on the Wilmot proviso in 1848, had been growing in favor in the north, though it had not yet been adopted as a party policy. It was that the people in each new state, in organizing its government, should decide whether it should be slave or free. The delegates, therefore, felt that they would be allowed to decide this issue for themselves, and even that their right to do so might not be questioned. But whether this was so or not, many of them had been instructed to vote for a free state. after a convention began to be talked about, public meetings were held at various places to discuss the slavery question, and these almost uniformly developed a strong sentiment in favor of freedom—those recently from the slave states being generally quite as outspoken in favor of it as those from the free. Two

largely attended meetings were held at San Francisco on February 17th and 24th, where Captain Joseph L. Folsom presided, and at which resolutions were adopted instructing the delegates already appointed to oppose by all honorable means, any act, provision, or ordinance, calculated to further the introduction of slavery into California.* A meeting held at Mormon Island on July 4th, declared that its members would "do everything in their power to prevent the extension of slavery to this country." Another held at Coloma was addressed by two speakers who declared that although they were from slave states, they were opposed to slavery, and in favor of instructing the delegates to the convention to work and vote against it. Shannon had been present at this meeting and promised, if elected a delegate, to introduce and use every effort to have a free state clause embodied in the constitution.† In fact, so far as the meetings of the time were reported, the sentiment in favor of a free state was general.

With the copies of the constitution of Iowa which Gwin had provided, and the constitutions of various other states which other members had brought with them before them, the special committee was able to report first drafts of the various divisions of the constitution as rapidly as they could be considered, notwith-standing the fact that three long sessions were usually held each day. The reports, as they were received, were first considered in committee of the whole, section by section, in the usual way. Amendments were freely offered, and some of the wisest provisions which this

^{*}Annals of San Francisco, 210-220.

[†]California's Transition Period, by Samuel H. Willey, D. D.

first constitution contained were substituted in this way for those originally proposed. Perhaps some of those members who felt that their own usefulness had been to a certain degree circumscribed and limited by assigning the work of preparing a preliminary draft to one committee, were a little more enterprising in this respect than they otherwise would have been, but the majority considered every proposition with calmness, and disposed of it with deliberation. In fact, nothing was done under the pressure of excitement, except in one instance—and in that calmer counsels ultimately prevailed. The proposition of McCarver, a man of southern birth, but who had lived at various times in Illinois, Iowa, and Oregon, to exclude free negroes and forbid slave owners to bring negroes into the state for the purpose of liberating them, which was voted down when the bill of rights was under consideration, was again proposed during the discussion on the legislative section, when it was debated at considerable length. The purpose of it was declared to be to protect free labor against degrading competition, but the majority saw no prospect of danger from that direction, and it was again defeated. An amendment forbidding the infliction of the death penalty for any crime was also defeated.

Some difficulty was met in limiting the right of suffrage to white males over twenty-one years of age, as a majority of the delegates wished, without conflicting with the treaty of Guadalupe Hidalgo. De la Guerra called attention to the fact that many native Californians who would be entitled to vote under the treaty, had very dark skins, though they were descend-

PABLO DE LA GUERRA

Son of José de la Guerra y Noriega; born at Santa Barbara, November 28, 1819; died, February 5, 1874; married, March 7, 1847, Josefa, daughter of Santiago Moreno. His baptismal name was Pablo Andrés Antonio Maria. He was an active and influential member of the Constitutional Convention, being well educated, a man of good ability, and an effective speaker in Spanish and English. He was United States marshall for the southern district in 1851; state senator four terms and when Downey became governor on the resignation of Latham, Don Pablo as president of the senate, became acting lieutenant-governor of California. From 1863 to 1873 he was judge of the First Judicial District, resigning in 1873 because of ill health.



Pablo dela Guerra



ants of European parents; some also, had Indian, and even negro blood in their veins. To meet the requirements of the treaty, it was agreed that the legislature, by a two-thirds vote might admit Indians, or descendants of Indians, to the privilege in such special cases as its members might think proper.

The section prohibiting lotteries and the sale of lottery tickets met with opposition, for lotteries were not yet regarded with general disfavor. Sixty years earlier, all sorts of enterprises, both public and private, had been financed by them-school houses, churches, bridges, and public buildings, even those first erected at the new national capital on the Potomac, had been erected by such means. As late as 1832 as many as four hundred lottery schemes, with prizes amounting to \$47,000,000 had been promoted in the United States.* It is hardly surprising, therefore, that some of the early statesmen of California should have thought, as Price of San Francisco did, that it would be impolitic to prohibit them. They might, he said, be made the source of great revenue, and however objectionable in theory, it was better in some cases to legalize immoral acts and regulate them, than to have them done in secret. Although he was opposed to them, he regarded them as a sort of necessary evil, and as a revenue of \$300,000 a year might be derived from them, he thought they might be tolerated, at least for a time. The people of California were essentially a gambling people. Every public house had its faro and monte tables, although licensed by law where there was any law. They were

^{*}McMaster, History of the People of the United States, Vol. II, p. 484-6, Vol. VII, p. 154.

constantly crowded, and lotteries were not likely to be more demoralizing than they were. Shannon thought the matter should be left to the legislature, while Halleck, Dimmick, McCarver, Dent, and Hoppe, strongly advocated the prohibition, and the report of the committee was adopted.

The section on corporations was very earnestly debated. The delegates were quite unanimously and earnestly opposed to the creation of any corporation that might issue paper money in any form for general circulation. They wished specific provision forbidding the creation of any such corporation, and generally limiting the powers of all corporations. The section as reported had provided that "corporations may be formed under general laws, but shall not be created by special act except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation would not be attained under general laws." Jones, the youngest member of the convention and one of the most sagacious, called attention to the fact that the language used provided only that no corporation should be created, unless the legislature saw fit to create it, which was absurd, and after a long and interesting debate, the provision was so amended as to forbid the legislature to create any corporation except for municipal purposes.

When the article in regard to the judiciary was reached, the report of the committee was so unsatisfactory that a special committee was appointed to redraft it. This committee made a report on the following day which met general approbation, and was adopted. Some difficulty was also found in fixing the

seat of government. The committee had reported in favor of locating it at San José, until removed by two-thirds vote of the legislature, and this was finally adopted though not until various other towns had been suggested. Halleck wanted the first session held at Monterey, Price wanted it at San Francisco, Tefft suggested San Luis Obispo, Semple, Benicia, Covarrubias, Santa Barbara, and Shannon cynically advised that it be fixed at some point in the Great Basin beyond the Sierra Nevada.

The section defining the right of a wife to separate ownership of all property belonging to her at the time of marriage, whether acquired by inheritance or otherwise, and also a half interest in that acquired after marriage, also provoked a long debate, in which the merits of the common law and civil law were fully compared by the lawyers in the convention. While it met with much opposition, and the objections were ably stated, the report of the committee was finally adopted, a strong argument in its favor being that it had always been the law in California.

A special committee had early been appointed to prepare a design for a state seal and it was not ready to report until the convention had nearly finished its labors. It finally presented a design drawn by Major Robert S. Garnett, though credited to Caleb Lyon one of the clerks, which after some objection was adopted. It is the seal of California today. Some amusement was created when the Californians, and particularly General Vallejo objected to the bear because, as it was easily guessed, of its suggesting the Bear flag episode of which he was the principal victim. He thought if

the bear was to be permitted to appear at all he should be represented as made fast by a lasso in the hands of a vaquero, and in this view his compatriots and some others supported him. His suggestion was defeated by a majority of only five votes—16 to 21.

A separate article limiting the state debt to \$300,000 was adopted, though it was provided that in case of war, to repel invasion, suppress insurrection or for some other urgent necessity, this limit might be increased by a special act of the legislature, which should provide ways and means to pay the interest and discharge the principal of such increased amount within twenty years; such act should be irrepealable, and should not take effect until submitted to the people and approved by a majority of votes cast at a general election. This was an early and very sensible provision for the referendum, since it was required in a matter about which all voters could be intelligently informed.

The boundary question provoked the longest and most exciting debate in the convention. While the delegates were nearly or quite united in favor of a state extending from the forty-second parallel—fixed as the northern boundary of California by the Florida treaty in 1819—to the line designated by the treaty of Guadalupe Hidalgo, as the southern limit, they had widely differing views as to where the eastern boundary should be. Most of them realized that the Sierra Nevada not only made a natural boundary, but would form a barrier across which it would be both difficult and expensive to administer government, in case the state extended beyond. There was no settlement east of the

range nearer than Salt Lake; the whole region was for the most part a barren waste so far as then known: there was no reason for including it in the new state except as a matter of expediency. All were most anxious that the new state should be so presented for admission to the Union, that the least possible objection could be made to it. Some thought this would be most surely gained by including in it all the territory that had hitherto been known as California; others were as clearly of the opinion that this would be an objection, and a serious one. Some thought they had no right to include more territory than that General Riley had designated in his call,* and stoutly protested against forming a constitution for the Mormons who had not even been asked to send delegates. Still another and by no means insignificant faction, led by Halleck, Semple, and Sherwood of Sacramento, fancied that they could settle the slavery agitation for the whole country, by the simple device of including all of California temporarily in the new state, expecting and knowing that it would be divided into other states as soon as increased population should justify or make division desirable. This was thought desirable not only by those who wished to exclude slavery from the whole region, and thought they would accomplish it by the more extended boundary-since they had already decided that California should be free; but by many who were southern born and strongly sym-

^{*}The call had spoken of "a convention in which all parts of the territory are represented," and in describing the districts in which delegates were to be chosen, had fixed their eastern boundaries at the Colorado and Sierra Nevada.

pathized with slave holders in their claim to equal rights and equal privileges in the newly acquired territory, with the people of the north.*

The idea that this convention of forty-eight delegates sitting at Monterey on the extreme western side of the continent might dispose of the slavery agitation which had occupied so much of the attention of congress, and the entire people of the country since 1835, appears to have been suggested by Thomas Butler King, a member of congress from Georgia, who had been sent to the coast by President Taylor immediately after his inauguration in March, to collect information rather than to give advice. King was one of those by no means rare officials who do not always clearly distinguish between their personal and their official capacities. He had a high opinion of his own importance as a special representative of the new administration. He had visited the mining districts in company with General Smith and his staff; had made some speeches while the election of delegates to the convention was pending, and had generally made it known that he was a person of some consequence, so that whatever he said was regarded by many as expressing the views of those much higher in authority. He had taken occasion to say to Semple, and perhaps to others, that the convention had or would have it in its power to settle the slavery contention for the whole country. "For God's sake," Semple reported him as saying "leave us no territory to legislate upon in congress."

^{*}Steuart of San Francisco was one of these. He openly declared that he was "prepared to sustain the rights of the south against the fanaticism of the north," while contending that the convention could make a constitution for those who were represented in it and no others. Browne, Debates in the Convention of California, p. 438.

While King is nowhere reported to have claimed to speak by authority of the president in this matter, there is reason to think that he may have done so. President Taylor was a novice in politics. He was no doubt greatly concerned about the slavery agitation and may possibly have hoped to allay it by such a subterfuge as King had suggested. The plan which Cass had proposed a year earlier, of allowing the people in the territories to decide the slavery question for themselves when they came to organize state governments, was growing in popularity, though congress had not approved it, and no party had yet adopted it as a tenet of its faith. It was a plausible expedient; it was beginning to be called "popular sovereignty" an agreeable name, though its opponents cynically spoke of it as "squatter sovereignty," and Lincoln later defined it as meaning no more than that "if one man desires to enslave another no third man shall object."

While King was playing the confidential agent in California, another representative of the new administration was advising the Mormons at Salt Lake as to the policy they should pursue, and was even negotiating with them, as it appears, in the president's name. This was General John Wilson, an Indian agent, who had told them that the president wished their help to relieve him and his cabinet from "a difficulty in which he thinks they are likely to be involved." They could do this by consenting to have all California included temporarily in one state, the people to say whether it should be slave or free.* To meet the

^{*}Letter of Brigham Young, Heber C. Kimball, and Willard Richards to Amasa Lyman. Whitney, *History of Utah*, Vol. I, p. 408.

president's wishes, as they supposed, the Mormons consented to "a general constitution for one state.

* * * The two to be consolidated into one," according to Young's letter, and "named as the convention shall think proper, but to be dissolved at the commencement of the year 1851."

General Wilson himself came to California in company with a Mormon delegate to negotiate this arrangement, but arrived too late to accomplish anything. The constitution of California had been adopted, the legislature was in session and it refused to listen to what they had to propose. The fact that they came, however, and that General Wilson, a federal officer, was one of them, must be taken as strong evidence that the administration had authorized him to do what he had been doing, and that it approved the subterfuge, which he had suggested to the people of Utah, and King to those of California. It is no matter of surprise therefore that the delegates chosen to form a constitution for a new state, many of whom were young men with but little experience in governmental affairs, should have fancied that they might settle a matter of the gravest national importance by such means.

The boundary matter was first mentioned in the convention on September 12th, when, at the suggestion of Hastings, the chair appointed a special committee consisting of Hastings, Reid, Sutter, De la Guerra, and Roderiguez to recommend a boundary. These five were supposed to have a wider and more general knowledge of the territory than most of the other delegates, and were named for that reason. The two

Spaniards had been born in California, Reid had lived in it sixteen years, Sutter ten, and Hastings, who had come to it in 1843, had spent much of his time in explorations, particularly east of the mountains. They reported on September 18th in favor of fixing the 116th meridian from the 42d parallel to the line which the boundary commission, then at work, should locate as the southern limit of the state, for the eastern boundary.

No immediate action was taken on this report, and on September 22d, McDougal, suggesting that there was likely to be a variety of opinion on the subject, proposed as an amendment the 105th meridian from the 42d parallel to the southern boundary. This would have carried the line beyond the Rocky mountains and within one degree of the present eastern limits of Wyoming. His amendment also proposed, as an alternative, that if this boundary should not be acceptable to congress, then the 120th meridian from the 42d to the 38th parallel, and thence by a direct line running in a southeasterly direction, to a point where the 116th meridian crosses the Colorado river, thence down the middle of that river to the southern boundary, would be accepted.

Gwin proposed "the line between New Mexico and California, as laid down on the map of Oregon and Upper California, from the survey of J. C. Frémont and other authorities, drawn up by Charles Preuss in 1848," and Halleck suggested as a proviso, which Gwin accepted, that the legislature of the state should be empowered to acceed, by a two-thirds vote, to such proposition as might be made by congress upon the admission of the state, in case they deemed it reasonable

to limit the eastern boundary to the Sierra Nevada and a line drawn from some point in that range to some point on the Colorado or Gila river.

Shannon proposed a line following the 120th meridian from the 42d to the 38th parallel, thence in a south-easterly direction to a point where the 35th parallel crosses the Colorado, and thence southerly following the east bank of the river to the boundary, when the commission should finally fix it.

The line which the special committee had recommended would have cut off almost all of Imperial, and nearly half of Riverside and San Bernardino counties of the present day, as well as a part of Inyo; and Hastings explained that it had been chosen because it included a large amount of arable and very desirable land east of the mountains, while what it excluded in the south "was utterly worthless and the river is not navigable there." No action was taken on Shannon's proposition, nor was any further progress made at this session than to declare a preference for the Gwin-Halleck line over that of McDougal.

All of Monday, the 24th, was spent in discussing the Gwin-Halleck amendment, after the chair had ruled that it had preference over all others before the house—a bad ruling, although the house sustained it on appeal; for all that had been decided was that the Gwin-Halleck amendment was preferable to McDougal's. Just before adjournment it was adopted in committee of the whole, by a vote of 19 to 4, and the committee rose.

This report did not come up for consideration in convention until the evening of October 8th when Hastings offered as a substitute: The II8th meridian from the 42d to the 38th parallel, thence by a line running in a southeasterly direction to the point where the II4th meridian crosses the Colorado, thence down the middle of that river to the southern boundary as the commission should fix it.

Without debate this was adopted by a vote of 23 to 21 and ordered engrossed; but almost immediately, on motion of McDougal, the vote was reconsidered. Then the whole question was reopened, the rule limiting speeches to five minutes was suspended, and the most exciting debate of the whole convention was begun. It ran through the evening, all of a long morning session and part of the afternoon of the following day, growing more and more exciting as it progressed, until the session ended in great confusion.

During the session Hasting's substitute was voted down by 17 to 27, and Shannon proposed:

The 120th meridian from the 42d to the 38th parallel, thence southeasterly to the point where the 35th parallel crosses the Colorado, thence following the river, etc.

This was rejected by 19 to 25, and McDougal proposed the 107th meridian from the 42d to the 32d parallels; but if congress refused to admit the state with such a boundary, then the 120th meridian from the 42d to the 39th parallels, thence southeasterly to the point where the 35th parallel crosses the Colorado, etc., subsequently he withdrew the first line proposed, and the second was defeated by 22 to 24.

A vote was then taken on the Gwin-Halleck proposition and it was adopted by 29 to 22.

Upon the announcement of this vote, the most exciting scene of the entire convention occurred.

McCarver moved to adjourn sine die, as "mischief enough had been done." Hoppe gave notice of protest, Snyder declared the constitution gone, and others joined with him, while still others called loudly for order. McCarver insisted upon a vote on his motion, and Gilbert demanded the yeas and nays; while Norton sought to bring the delegates to their senses by reminding them that a day for final adjournment had already been fixed. Calls for "order" and "question" continued for some time, until McCarver was persuaded to withdraw his motion, and when quiet was partially restored the convention adjourned over.

On the following morning as soon as the convention assembled, Jones, its youngest member, obtained the floor, and after giving notice that he had prepared an alternative proposition, moved that the last vote taken be reconsidered. In a most temperate and persuasive speech, he reminded the delegates of the gravity and importance of what they were seeking to do, the difference of opinion as to how it should be done, and the urgent need for calmness and deliberation. His proposition was to fix the line at the natural boundary:

The 120th meridian from the 42d to the 39th parallels, thence southeasterly to the point where the 35th parallel crosses the Colorado, etc.

But if congress refused to accept the state with that boundary then all of California and New Mexico should be included.

The convention was now in a calmer mood than on the preceding day, and the debate proceeded more temperately. Reconsideration was agreed to—32 to 13—when, after much discussion Hill of San Diego, suggested:

A line running due north from the point where the 35th parallel crosses the Colorado to the 42d parallel.

A vote was first taken on Jones' proposition and it was defeated—13 to 31—and then Hill's proposition was adopted—24 to 22; but a few moments later engrossment was refused—20 to 25. Sherwood then moved the adoption of the report of the committee of the whole—the Gwin-Halleck proposition—the adoption of which had created so much confusion on the evening previous. A vote was taken without further debate and the motion was defeated—18 to 24.

Another vote was immediately taken on the first line suggested by Jones, the alternative being withdrawn, and it was adopted—32 to 7. So the boundary of California was fixed and at seven o'clock the convention adjourned for the day.

Several writers on California history—and among then some of the ablest—have assumed that the members of the convention who were from the slave states, sought to make the boundaries of the state so large that it would need to be divided, in which case they hoped to have the division made by an east and west line, so that all south of 36° 30′ which if extended would reach the ocean only a short distance south of Monterey, might be made a slave state, in case any considerable part of it should be found to be suited to slave labor. Mr. Royce has taken this view,* and Bancroft thinks they hoped in the division to get half a dozen slave states.† Other writers have pointed to

^{*}California, p. 262-6.

[†]History of California, VI, p. 201.

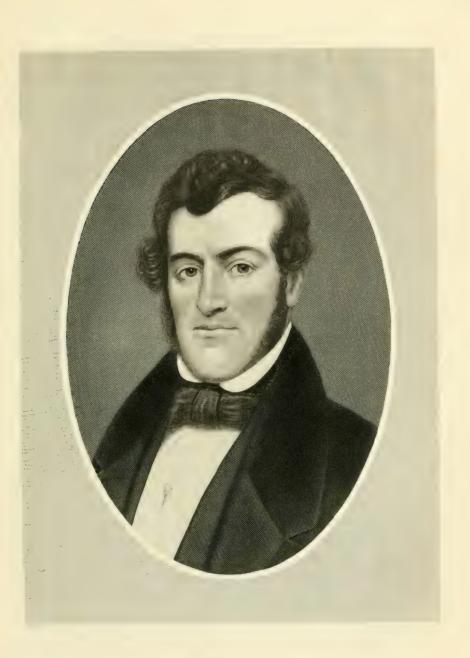
the fact that in 1859, during the excitement that preceded the beginning of the war between the states, the legislature passed an act authorizing the six southern counties of that day to decide for themselves whether they would separate from the state and be organized as a territory. But this contention is not borne out by the facts. The act of 1859 was a protest against unequal taxation, and was the result of discontent which began to manifest itself in 1851. The debates and numerous ballots taken in the convention, show that the wider boundary was advocated as earnestly and as ably by northern delegates as by those from the south, while the natural boundary as finally fixed was supported with equal ability and persistence by delegates who were southern born. No delegate fought for it with more spirit than Botts of Monterey, who was a Virginian and a brother of John Minor Botts, who served ten terms in congress from that state. Steuart who was born in Maryland, and who declared during the debate, that he was ready to support the south against northern fanatics, supported it, as did McCarver and Semple who were Kentuckians, and Jones, a native of Louisiana, whose eloquence as an orator, and tact as a parliamentarian secured its adoption. On the other hand Sherwood, a New Yorker by birth, who was charged during the debates with favoring the Wilmot proviso, Wozencraft, born in Ohio, Norton, a Vermonter, and Halleck, a New Yorker, voted almost steadily with Gwin, as did Shannon who proposed the declaration in the bill of

JACOB R. SNYDER

Born at Philadelphia, August 23, 1812; died at Sonoma, April 29, 1878; came to California in 1845, overland, with the Swasey-Todd party. He served as an officer of Fauntleroy's dragoons and as quartermaster in the California battalion with the rank of major. He was a member of the Constitutional Convention and was the first treasurer of the United States mint at San Francisco. He was a man of good abilities and of excellent standing.

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rights which made California a free state, Gilbert who was from New York, Snyder a Pennsylvanian and Tefft of Wisconsin.*

The native Californians, and the older American settlers who had married California wives, like Stearns and Hanks, usually voted together, and in favor of the larger boundary. They had preferred a territorial rather than a state government at the outset, because they thought it would be cheaper, and for this reason were looked upon as forming a sectional party or faction. They were loyal to California as it was, but were not factional for any other reason. Their twelve votes, comprising as they did one-fourth of the convention, gave the larger boundary men an element of strength that prolonged the contest far beyond the limit it would otherwise have reached. Gwin, who kept his senatorial aspirations steadily in view, never lost sight of the value these votes and the constituency they represented might be to him, and it is not unlikely that his policy on the boundary question, in some degree, was shaped to please them.

The Gwin-Halleck party made no secret of the fact that they advocated the larger boundary simply as a matter of expediency. They made no answer to the argument of Botts that congress would not look with favor upon a new state with an area almost equal to that of the entire south, but admitted that as settlement progressed it must be divided. Gwin, early in the debate, declared that he "would like to see six states fronting on the Pacific in California." He

^{*}For a very careful and interesting summary of the debates and ballots on this question see an article by Cardinal Goodwin in the Southwestern Historical Quarterly, for January, 1913.

wanted the additional power of twelve senators in congress instead of four, and "when population comes they will require that this state shall be divided."* He denied that he had any purpose of increasing the influence of slavery in congress, and saw no opportunity to do so. "If," said he, "there is any portion of this country south of 36° 30′, adapted to slave labor, and slave cultivation, I have never heard of it."†

With the troublesome boundary question disposed of the convention soon concluded its labors. A few regulations providing for the submission of the constitution to the people, and for organizing and installing the new government, were adopted in the form of a schedule; and the whole was placed in the hands of a copyist for engrossment. Then the convention hall was given over to decorators to be made ready for a ball which the delegates had determined to give the people of Monterey in return for their many hospitalities, and for which each delegate had contributed twenty-five dollars. The tables, chairs, and the rostrum on which the presiding officer had sat, were removed, and the walls were decorated with flags and young pines. Dancing began at eight o'clock, and was kept up during the greater part of the night. Music was furnished by two violins and two guitars, and according to Bayard Taylor, "made up in spirit what it lacked in skill, each tune ending with a funny little squeak, something like the whistle of the octave flute in Robert le Diable." The dress of the dancers. as described by the same writer, was "as varied as

^{*}Debates, p. 196.

[†] Ibid, p. 198.

their features and complexions. In the whirl of the waltz, a plain, dark nun-like robe would be followed by one of pink satin and gauze; next perhaps a bodice of scarlet velvet with gold buttons, and then a rich figured brocade, such as one sees on the stately dames of Titian. The dresses of the gentlemen showed considerable variety, but were much less picturesque. White kids could not be had in Monterey for love or money, and as much as fifty dollars was paid by one gentleman for a pair of patent leather boots. Scarcely a single dress that was seen belonged entirely to the wearer, and I thought, if the clothes had the power to leap severally back to their respective owners, some persons would have been in a state of utter destitution."

On Saturday morning October 13th the convention held a short session in which it adopted a resolution of thanks to General Riley, and an address to the people submitting the results of its work; and then adjourned until two o'clock when it reassembled for the last time. The copyist who had been at work on the engrossment of the constitution all the preceding night, had now finished, and the instrument was ready for the signatures of those who had made it.

Arrangements had been made to signalize this closing act with appropriate ceremony. Some of the vessels lying in the harbor displayed their colors and among them a British ship displayed its own and other flags with the stars and stripes above them all. Captain Burton, in command at the fort, had prepared to fire a national salute, and when the flag over Colton Hall was displayed, indicating that the signing had begun, the first gun was fired. Captain Sutter, who a

moment earlier had been placed in the chair because President Semple was too ill to serve, sprang from his seat and waving his arm over his head exclaimed, "Gentlemen: this is the happiest day of my life. It makes me glad to hear those cannon. * * * This is a great day for California." Then with tears of joy streaming down his cheeks he resumed his chair, while the delegates gave three tumultuous cheers which were heard from one end of the town to the other. Then as the signing went on gun followed gun until the thirtieth was reached—one gun for each state then in the Union. A moment later the thirty-first boomed over the waters, and reverberated through the hills. There was a general shout: "That's for California," and delegates, clerks, attendants, the sailors on the ships, and the people outside as well as inside the convention hall, joined in giving three times three for the new state, thus recognized for the first time in a national salute.

The signing completed, the convention adjourned sine die, and its members marched in a body to the home of General Riley, where temporary chairman Sutter made a very felicitous congratulatory address, tendering the thanks of all the delegates for his cooperation in the important work which had now been so happily completed. The general was taken quite by surprise at this compliment, which was evidently so genuine. He replied briefly though happily and was given three cheers as governor, and three more "as a gallant soldier and worthy of his country's glory."

So the first constitution of California was made and finished. It was, in the opinion of many who had most

occasion to study it, an admirable instrument and in many respects superior to that substituted for it in 1879. It was scoffed at by some as having been taken largely, if not bodily from the constitutions of older states, which was true, but what experience and the test of time had proved to be valuable, was not, in its day, as lightly regarded as it has sometimes been in later years.



CHAPTER VII. FORTY-NINE AND SPRING OF FIFTY



THE intense activity of 1849 and 1850 was directed toward exploration and experiment. Few among the throngs who came by every ship, and later by the overland routes, knew anything about mining. Nearly all were eager to try their fortunes in the mines; to find for themselves the shining deposits in the river beds and gulches; and all cherished a hope of finding something richer than had yet been discovered. Few brought with them more money than was needed for the expenses of the journey, and the prices demanded for food and all the necessaries of life forced most to act quickly. Hotels charged eight dollars a day for board in San Francisco, and ordinary boarding houses demanded from twenty to thirty dollars per week. Meals at restaurants cost from two to five dollars; wheat flour and salt pork sold at forty dollars per barrel, potatoes and brown sugar at thirty-seven and a half cents a pound, and bread at fifty cents per loaf. Ordinary laborers were paid one dollar per hour, while skilled mechanics would not work for less than sixteen dollars per day.*

These prices were startling to people who had come from the Atlantic states where laborers were glad to work from sunrise to sunset for from seventy-five cents to eighty-seven and a half cents per day, where bricklayers were usually paid seven dollars and shoemakers five dollars per week, and where the patrons of good hotels complained if asked to pay two dollars and fifty cents per day.†

^{*}Annals of San Francisco, p. 253-4. †McMaster, History of the People of the United States, Vol. VIII, p. 97-8.

Those who came during the early months of 1849 landed at San Francisco; those coming overland did not begin to arrive until July. On landing, these earliest arrivals waited only to inquire where the latest and most promising discoveries had been made, and to make arrangements for going thither. Only gamblers and people of worse character, who had come to prey upon their kind, merchants who had brought stocks of goods, and traders and speculators in various lines, remained to swell the population of the curious city of huts and tents on the west shore of the bay just inside the Golden Gate.

The main route to the interior lay through San Pablo Bay, and the Sacramento and San Joaquin rivers, up which some of the sailing ships were beginning to go as far as Stockton and Sacramento. Steamers had not yet replaced the sloops and barges which Sutter's Indians had rowed, or poled, up and down the river—sometimes assisted by sails—though they would soon begin to do so. A small steamer, scarcely more than a clumsy toy, built by an American for the Russian chief fur traders at Sitka, had been bought by Leidesdorff in 1847, and brought down to San Francisco on a sailing ship. This, the first of all steam-propelled vessels to disturb the waters of California, after making one trip up the Sacramento to Sutter's fort, in six days and seven hours, returned to San Francisco, and was soon after swamped at her moorings.

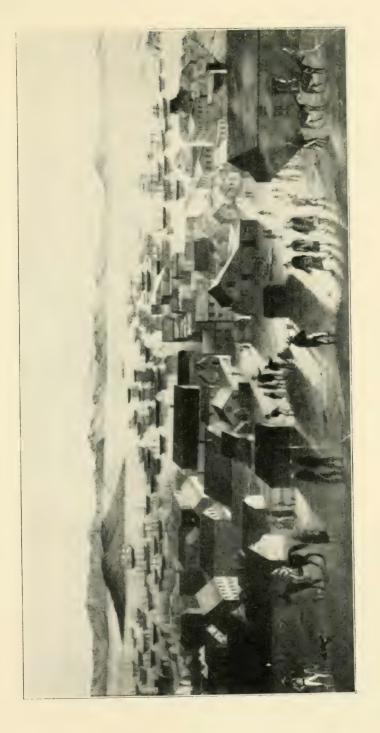
Some attempt was made to build steamboats at Benicia during the summer but without much success, so those who went to the mines by the river route SAN FRANCISCO IN 1849
From a lithograph in the Golden Gate Park Museum.

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before October, went as the gold hunters had gone during the preceding year, in small boats, barges or sailing ships. Some of them paid handsomely for the privilege, for when the crush was greatest as much as fifty dollars would be demanded for the trip, and the passengers would be required to work at the oar, or as deck hands in addition. Bayard Taylor who started for the northern mines early in October, after returning from Monterey, left San Francisco in a small sailing ship which carried him and about seventy other passengers, at fourteen dollars each, as far as the entrance of the Sacramento River, where they were transferred to a small and dirty steamer called the Sacramento, in which they completed the journey.

Two other little steamers made their appearance in the bay at about this time. The first was the Pioneer, which had been sent out in pieces from New York, and the second, the Mint, which made her trial trip on October 9th. A few days later the McKim, a little propeller of 327 tons, arrived from New Orleans, and in November was put into service on the river. She was able to make the trip in fourteen hours, and sometimes carried as many as 250 passengers. A little later the side wheel steamer Senator, of 750 tons, was put on the route, and for sometime made alternate trips with the McKim. The fare on these steamers between San Francisco and Sacramento was thirty dollars per passenger, and freight was carried for fifty dollars a ton. By the end of 1850 there were twenty-one steamers running between San Francisco, Sacramento, and Stockton, most of which had been sent around Cape Horn after their arrival as freight, and put together.

Those who were not able to secure passage by the small boats and other craft before these steamers arrived, or who were not willing to pay the rates charged, went overland as many had done in 1848. Those bound for Sacramento went by way of Sonoma, or by the contra costa route to Benicia, where they crossed the river by Dr. Semple's ferry, which in these days did a thriving business. Those bound for the southern mines, if they did not go by the river, crossed by way of Livermore pass to Stockton. This was a well traveled route in 1849, and it was said that the camp fires of the gold hunters lighted the whole way from Stockton to the base of the mountains.

When the overland trains began to arrive late in July and early in August, the number of gold hunters increased much more rapidly. No matter by what route they came, all looked to Sutter's fort as their final destination. It was there they expected to replenish their supplies and get the latest news from the diggings, by which they would determine where they would first try their fortunes. They went there although they frequently met on the way friends whose acquaintance they had made on the plains, and who were going to the northern mines on the Feather, the Trinity, or the Klamath, or some of the numerous forks of the Yuba and American, and knowing well that they would soon follow them. Those who came by way of Los Angeles crossed through the Tehachapi into the great interior basin, as the Audubon party did, or came over the Camino Real through the Salinas valley.* These travelers by the southern

^{*}Bayard Taylor notes that the bands of emigrants from the south had stripped all the fruit trees in the orchards of San Juan Bautista. Eldorado, p. 196.

route made Stockton their goal, although they did not probably hear of it before leaving Los Angeles, and many doubtless drifted thither from Sacramento.

Sacramento and Stockton, which had been nothing more than trading posts in the autumn of 1848, had become populous towns less than six months later. The former had been surveyed into lots and blocks by Lieutenants William H. Warner, William T. Sherman, and E. O. C. Ord, late in 1848. At first it included the high ground in the neighborhood of the fort with only one or two streets extending to the river. Captain Sutter who, in the midst of the throbbing prosperity which surrounded him on every side, had nearly become bankrupt because of his lack of business ability, was in the mountains endeavoring to recuperate his failing fortunes when this survey was made, and is reported to have been much dissatisfied with it. A better site for a city in his opinion and that of many others, lay along the bank of the Sacramento some two or three miles south, where the town of Sutterville had been platted three years earlier. George Zins, who had married Mrs. Wolfinger of the Donner party, built a brick house there, the first in California, in 1847 or early in 1848, and two or three frame houses were built before Sacramento was surveyed; but the fort continued to be center of business and the city persistently refused to leave it.

The new town did not lack for population from the time the survey was made. The inrush of gold hunters was so great, even before those who came overland began to arrive, that merchants and traders were scarcely able to provide supplies for them as quickly as they were needed; and it was utterly impossible to erect suitable buildings in which to carry on their business as fast as its expansion demanded. Accordingly the ships which brought their goods up the river, being deserted by their crews and so rendered helpless as soon as their anchors were dropped, were moored along the shore and converted into trading establishments, while a city of tents and muslin-covered frames grew up along the shore behind them. By the time the rains began in November, it had a population estimated at ten thousand,* while other thousands of the recently arrived overlanders were encamped in its immediate vicinity.

Stockton, which Captain Weber had first christened Tuleburg, but later named in honor of the commodore, had consisted of nothing but a store and a few unfinished houses when Colton passed through it on his return from the mines in the preceding November but grew quite as rapidly as its rival on the Sacramento, and in the fall of 1849 probably had as many inhabitants. Like Sacramento it was a city of tents, and also had its forest of masts, and its row of ships moored along the river bank, nearly all of which had been converted into stores, shops, hotels, and lodging houses. It was from these two towns that the gold hunters of 1849 and later years radiated to the various rivers of the mining region.

As these adventurers arrived at the mines they generally took claims on the first promising ground above that already taken, and went patiently to work

^{*}Bayard Taylor, Eldorado, p. 219. Bancroft thinks it had not more than 6,000 at the time of Taylor's visit.

to discover what they contained. In this way all of the river valleys and neighboring gulches, and even the sides and tops of the hills, where they were found to contain gold, were dug over, though the work was in many cases so hastily and imperfectly done that fair profits were later made in digging it over a second, and even a third or fourth time. The advance made by this class of workers was regular, and left little hope of finding anything surprisingly rich behind it. There was another and less patient class who were eager to find something richer than had yet been discovered, and who, adopting the general impression that the coarsest gold and largest nuggets would be found farther up stream, hurried forward to explore all the rivers and their branches to their sources. These were prospectors rather than miners. They stopped only to examine a few shovelfuls of earth here and there and settled down to earnest work only when they found indications that the ground was unusually rich. Eagerness to find the best-to discover something richer than any had yet found-very often led men to desert claims that subsequently proved to be exceedingly rich. Men were not satisfied to work in ground that yielded an ounce a day if they heard that something better had been discovered; and reports of new finds each richer than the last, and of single nuggets that were alone worth fortunes, were not wanting. Every wandering hunter brought them, and every stray packer on his way to Stockton or Sacramento for fresh supplies, had a story to tell that led claim holders in even the best camps to abandon good paying ground in the hope of finding something where wealth could be more quickly secured.

The outfits of these prospectors were simple and easily moved from place to place. They consisted of a pick and shovel, with possibly a small iron bar, a long bladed knife to dig in the crevices of rocks where rich deposits often lay hidden, a blanket, a few pounds of flour and bacon and a frying pan in which to cook them. As the miners and prospectors almost invariably worked in pairs, or small companies, and owned their camp outfit, and possibly their mining tools in common, these were easily transported.

A partner was almost as necessary to the prospector in these early days as his pick, his pan, or his blanket. He needed his companionship in the loney hills and gulches to which his eager quest was continually leading him, and in case of sickness his life might and often did depend on his fidelity. His camp outfit, or much of it, and part of his mining outfit also, would serve for two or more as well as for one. He could not use his pick and shovel, pan and knife all at the same time, and the cooking, dishwashing, and other work of the camp could be done for two as easily as for one. So if some agreement to work together had not been formed before starting, or a companionship grown up during the long journey by sea or overland, every prospector sought and found a partner soon after reaching the mines. Some partnerships thus formed were between strangely assorted pairs. A student recently from college, a lawyer or even a judge who had but lately left the bench, or as sometimes happened a minister fresh from his pulpit, might have as his closest friend and companion a farmer's son, a laborer or even a man whose past life would not bear very

close examination. Men who had long known and liked each other, or who found each other's company agreeable on the road, soon separated after reaching the mines, and formed new arrangements with very different people and for very different reasons. The rough life of the camp and trail developed traits in most characters that had been easily concealed under less trying circumstances. In the new life every man discovered some new need he had never felt before. A man of sound health and strong muscles could be more helpful to the judge or the student, than one whose occupation had more nearly resembled his own. while he in turn might make his learning useful to the laborer, or the artisan, whose perceptive faculties were less easily trained to observe those characteristics which better disciplined minds soon came to know indicated the presence or absence of what all were seeking. So it sometimes, if not always or even very frequently happened, that men who under other circumstances would perhaps never have thought of speaking to each other, formed satisfactory business relations and lasting friendships.

Before the rainy season began, which it did much earlier than usual in 1849, these prospecting parties had explored all the streams more or less thoroughly to their sources, and had examined the whole western side of the range from Kern river in the south, to the northern boundary, and the Trinity, Klamath, and Scott river valleys from their highest reaches to the sea. In fact so much of the remaining part of the state in which gold has never been found in paying quantity had been visited, that it may with truth be said that

no part remained unseen except the loftier portions of the summit of the Sierra Nevada and some parts of their eastern slope.

In this very general exploration many rich deposits had been found, although many others had been overlooked and remained to reward the enterprise of more careful and painstaking observers. A notable instance among the rich finds that were thus passed over by hurrying prospectors, was that made by an inexperienced gold hunter in 1850, who dug out \$19,000 in three days at a spot not far from Mormon island.* At the same time some 1,500 miners were at work on the island and making more money than had been made by its discoverers. On the middle fork of the American, where rich claims had been worked in 1848, many new diggings were discovered in 1849, while the old ones were still worked with profit. Some of them like Mud Cañon and American Bar are reported to have vielded as much as \$3,000,000 before finally exhausted, while others yielded \$1,000,000 or more each.

While the river beds and banks were eagerly inspected, the high ground was not neglected. The rich dry diggings, as they were called, in the neighborhood of Placerville of the present day, had encouraged the examination of all the dry gulches, and even the high ground of the ridges, and many notable finds were made in them. The divide between the south and middle forks of the American was particularly rich. Georgetown, one of the most famous of the early mining centers, and Kelsey's and Pilot Hill, all located on this ridge, were centers of supply for numerous

^{*}Sacramento Transcript, August 30, 1850.

camps, all of which yielded handsomely. On the north fork Auburn was the center of the richest of all the dry diggings after Placerville, while above it was Dutch Flat, famous for its hydraulic workings and for other reasons at a later day. Forest Hill between the north and middle forks was the center of a region so rich that J. Ross Browne estimated in 1868 that claims within a rifle shot of its express office had produced not less than \$10,000,000.* The American and its various forks and branches drained a region marvelously rich, and it was a favorite ground among the gold hunters in all the earlier years. In the fall of 1849, it was estimated that fully ten thousand miners were at work on the middle fork alone, while almost as many were on or near the south and north forks

Some rich finds were made on Bear river, the next stream north of the north fork of the American, but principally in its upper part. The Yuba and Feather rivers also attracted many prospectors. Rough and Ready on the former was a famous camp in early days, as was Park's Bar only a few miles above Marysville, now covered nearly a hundred feet deep under the debris from hydraulic mining. From this bar, located in 1848, five men are reported to have taken five hundred and twenty-five pounds of clean gold as the result of a few days shovelling and panning, and then returned to their homes in the east to enjoy their wealth. Deer creek, a small tributary farther up stream had so little water in it that the early prospectors rarely disturbed the rattlesnakes which then infested its

^{*}Resourses of the Pacific States and Territories, p. 93

valley, but it afterwards proved to be very rich in gold bearing gravel; and one of the first mining ditches in California was built to bring water to it in 1850. The whole region round about it proved to be underlaid with pay dirt that seemed to be the bed of an ancient river, now deeply covered with more recent deposits. The channel of this old stream, which ran from near the northern line of Sierra county to the southern line of Placer, and generally in a northwest to southeast direction, was filled with blue or in places, gray gravel, the finding of which was always hailed by the early miners with delight. All the ravines and flats in this region, as well as the bars of the Yuba and its branches yielded handsomely in the early years, Rush creek having produced \$3,000,000 as reported, Poorman's creek \$1,000,000 and Grass Valley \$4,000,000 from their placers alone, while the gold bearing ledges of the region have since become sources of permanent wealth.

While the early prospectors on the Yuba paid little attention to quartz ledges, and the deeper deposits which afterwards yielded so richly in the days of hydraulic mining, or overlooked them entirely, they did not fail to find bars and flats along its main stream and upper branches that could be easily worked with their pans and shovels, and many of them pursued their explorations far into the winter of 1849. Long Bar which was very rich, Sand Bar, and Sicard's Bar, Owsley, Kennebec, Saw-mill and Cordua, were all located in 1849. On the north and middle forks were Goodyear's Bar, Bullard, Ferry, Foster's, and Cut Eye, located in the same year, while St. Joe, Nigger Slide, Ranty Doddler, Hoodoo, Cut Throat, and Slaughter's Bar became famous only a few months later.

But of all the discoveries on the Yuba above Park's Bar none paid more handsomely than that made by a Scotchman named William Downie, on the north fork, and near the town of Downieville which was later named for him. Downie came to San Francisco by sea in the summer of 1849, and went immediately to the mines as most others did, helping to row a launch up the Sacramento as far as Nye's ranch, on which the town of Marysville was founded a few months later. His first experience in prospecting was not encouraging. He saw many others making good profits or lucky finds, but he made none. Still he was not discouraged. Like many others he early began to speculate about the gold and where it came from, and gradually adopted the popular theory that it came from some place farther up stream. He resolved to get nearer the source of supply, reasoning as others did, that larger nuggets would be found there, and possibly in greater numbers. Having made the acquaintance of a young Irishman named Michael Deverney, and secured the services of ten colored men who claimed to have been sailors, he set off up the river very late in the season. He was told that the Indians were likely to be troublesome, and winter was at hand, when snow might not only interfere with prospecting, but seriously endanger the lives of himself and party; but this did not divert him from his purpose. Late in October he set off up the river. At Zumwalt flat the party found promising ground and began mining in earnest, but though they made from three to five ounces per day per man, they were not satisfied. The gold found was in larger grains than they had found elsewhere, but instead of satisfying

them, it apparently only encouraged the hope of finding something coarser and better a little farther on. They moved on and found another patch of rich ground that was for a time known as Tin Cup Bar, because the lucky miners who worked there usually cleaned up a pint cup of gold each per day. The party settled down for the winter on a small branch of the north fork, about half a mile above the present town, where Downie and one companion secured seventeen, twenty-four, twenty-nine, and forty-nine ounces on four successive days.

There were other equally rich deposits in the vicinity. In the following summer there were over a hundred prospectors in Onion valley, which proved to be the center of very rich placers. In the valley itself over \$6,000 was taken from one claim in less than two hours, one nugget being worth \$1,800. Several other nuggets worth \$500 each were found there. At Kanaka creek a lump weighing nearly thirty pounds was discovered, and the gravel in which it lay was thickly sprinkled with coarse gold. Other rich camps in the neighborhood were named Port Wine, Poker Flat, Sears' Diggings, Poorman's Creek, Howland's Flat, St. Louis, Poverty Hill, Pine Grove, Chandlerville, and Brandy City.

In 1852 an old sailor or ships' carpenter, who was known as "Chips" (possibly because nobody cared to know his real name), discovered the famous Blue Lead, a deposit of very rich blue gravel which could be reached only by digging shafts or tunnels. As soon as he had shown how this deposit could be worked with profit, miners flocked to his neighborhood, and he sold out at

a satisfactory price, after which he crossed the ridge, began tunneling on its other side and soon struck richer gravel than before. This claim he also sold, and soon thereafter drank himself to death; but the kind of mining of which he was the pioneer on the upper Yuba, was followed for many years by miners in great numbers.

Rich quartz veins were also found in this part of the state, the earliest discovery being made purely by accident as now believed. One of the first specimens taken from the vein was more than half pure gold. A company was soon formed to work this property, though at that time, methods of crushing and reducing the ore were very crude, and that kind of mining was not very attractive.

The success of Bidwell and other prospectors on Feather river in 1848, drew to it many of the gold hunters who arrived earliest in 1849; and the returns they secured from their labors encouraged others to follow them until the river, one of the largest and longest coming into the great interior valleys from the east, and draining a wide range of country on the western slope of the Sierra Nevada, was rapidly and thoroughly prospected. Delano who returned to it with a stock of goods soon after his arrival at Sacramento found a thousand men at work on the bars at Dawlytown, a short distance above Bidwell's Bar; and many other camps farther up the river and along its three principal forks were relatively prosperous. Its south fork, the smallest of the three, took its rise not far from the upper waters of the Yuba, in the region which Downie and those who followed him had found so productive, while the middle and north forks were much longer and larger, reaching far to the north and into regions almost equally rich. The gold found at the numerous camps along these northern streams was not only as abundant, but was generally purer than that found elsewhere, much of it being worth eighteen dollars and forty cents per ounce, while some of that obtained farther south was so mixed with baser metals as to be worth scarcely more than twelve dollars.

The number of prospectors on the Feather was largely increased by a report which came down from the headwaters of the middle fork in May, 1850, that a lake had been discovered in that region on whose shores gold nuggets were so thickly mixed with the sand and gravel that they might be gathered with no more effort than was required to pick them up. Thousands believed the incredible story, or at least thought it sufficiently probable to be worth investigating; many abandoned claims on the river from which they were regularly taking a fair return for the labor expended, while others came from near and far to explore the new El Dorado. The way to it lay through a very rough country for nearly one hundred miles above the explored part of the middle fork through which the eager gold seekers transported their tools, camp outfits, and provisions with the utmost labor; and finally on reaching the lake they found its shores almost barren. It was later found that the story of their richness had been started by a crazy man, and he would have been hanged by the disappointed prospectors had not his irresponsibility become apparent.

The Gold Lake rush as it was called, was only one of many of its kind, most of which were disappointing,

though sometimes rich finds were made, the early reports of which though seemingly too good to be true, were more than made good. In the summer of 1849 many were led to make the long trip across the range to Truckee Lake, about which an old hunter named Greenwood told a story very similar to that which the crazy man had told about Gold Lake, and on arriving there found nothing. It is curious that this story should have gained any credence whatever since so many, particularly of those who had come overland. had passed this lake, and some of them must have found gold there had there been half as much of it as the old hunter represented; but the fact that many were deceived by the story, or at least thought it sufficiently probable to justify them in making a long journey the difficulties of which many knew so well, only shows how easily the early miners were induced to move from place to place.

But all who joined in the Gold Lake rush were not losers by their disappointing experience. Some found richer claims along the middle fork on their way back down stream than had been discovered below, or crossed to the north fork where still richer diggings were discovered that year. Stringtown and Nelson's on middle fork, and Rich Bar on a branch of the north fork ten or fifteen miles northwest of Quincy were the most famous of these. The discoverers of Rich Bar took two hundred and fifty-six dollars from the first pan full of earth tested, while a later pan yielded \$1,500; and two men working together secured thirty-three pounds of dust as the result of eight hours' work. Two

others within two weeks took out over \$6,000 each, and while others were not so fortunate nearly all were richly rewarded.

Rich Bar was made famous a year later in another way, and for another reason than its rich gold bearing gravel. Dr. Clapp and his wife went to reside there during the summer of 1851, and Mrs. Clapp, under the pen name of "Dame Shirley" wrote and published a series of letters describing her experience among the miners, which are still regarded as the most vivacious and authentic accounts of pioneer life in California that have been written. She wrote of the miner as she saw him in his every day life, at his work, and during his hours of rest and recreation; in his more serious and his gayer moods; his hours of exaltation over some particularly rich discovery, or his depression and despair when a long period of exhausting toil had met with no reward; in health, in sickness, and in death. The miner as she knew him was a real human being, quite like others of his kind, and quite unlike those described by other and later writers who saw him only at long range and knew him less intimately. He was no less picturesque than the unreal character that exuberant fancy has painted, but equally likeable and far more nearly resembling that most useful member of society known generally as the average man. The conditions that surrounded him were unusual, but he managed in most cases to adjust himself to them without suffering any marked change in his nature.

All the streams in the southern district, lying between the American and the great bend of the San Joaquin, were prospected with equal eagerness, and generally with equally satisfactory results, in these earlier years. More miners had been attracted to them in 1848 than to the streams farther north, and mining had been more regularly and more successfully prosecuted along their lower parts, probably for the reason that most of the Mexicans, who knew something about mining before coming to the country, had fixed their camps there, and naturally their American neighbors learned something of their methods by observation. The Cosumnes and Dry Creek, which are really branches of the Mokelumne, the Mokelumne itself for some distance above their confluence with it, and the lower reaches of the Calaveras, Stanislaus, and Tuolumne had presented scenes of great activity in 1848, which were increased and intensified when the throngs of gold hunters who came by the earlier ships began to arrive in 1849. Bayard Taylor who visited the lower Cosumnes and Mokelumne in November, found much of the ground along their banks and in the gulches opening into them, thoroughly dug over, while many new and prosperous camps had been located. One of the most prosperous as well as most curious of these was Volcano, in a deep basin surrounded by volcanic hills, many of which had been craters of a now extinct volcano. About a hundred and fifty miners were at work there, and they had chosen an alcalde and adopted a code of laws for the government of their camp, as had been done at many other of the more settled communities along this and other rivers. The gold deposits at this camp were found beside a clay stratum for which the miners were all searching, some finding it at a depth of two or three feet, and others near by having to go deeper because of the broken character of the country. When found the deposits were usually very rich, though many, after much labor found nothing at all. Mining there was therefore more of a lottery than at most other places, though none the less attractive to many for that reason.

Other rich finds were made at Indian Diggings and Michigan Bar on the Cosumnes, and at or near Drytown, Fiddletown, Ione City, Irish Hill, Amador, Sutter Creek, Campo Seco, Butte City, Independence Flat, Jackson, and Mokelumne Hill, on the Mokelumne. The last named was particularly rich, and Jackson was the center of a district in which many paying leads were found; later some of the most profitable quartz mines were developed in its vicinity. A few miles northwest of it a large area of dry ground carrying gold in tempting quantity, was discovered in 1849, but lack of water made it difficult to carry on mining there until water was brought in, as it was later, in flumes and ditches.

Mokelumne Hill, about half a mile south and eight hundred feet above the river, was a dry camp and the richest in its region. It was discovered in 1849 by discharged soldiers of the Stevenson regiment. French Hill, so called because it was first worked by a party of Frenchman, was near by and almost equally rich, while a few miles farther east were West Point, Independence, and Railroad Flats, all of which yielded handsomely. A party of seven Frenchmen who were among the earliest prospectors in this dry region, are said to have taken gold enough from a single gulch in

a few weeks to make them as rich as they cared to be, and they immediately returned to their own country. Other rich finds were made by the early prospectors but it was not until flumes were built in later years, and the ground worked systematically that the real wealth of the deposits was realized.

On the Calaveras, the next large stream south of the Mokelumne, Jenny Lind and Taylor's Bar in the lower foothills, had proved very rich but were soon exhausted. Farther up stream San Andreas, El Dorado, and Cave City, on the great auriferous belt extending from the Cosumnes to the Merced, proved to be richer and more enduring. Of these San Andreas, discovered in 1850 was the richest, an immense deposit of gold bearing gravel and cement having been stranded there in some mysterious way in ages past.

Farther south on the Stanislaus and Tuolumne were Carson's, discovered in 1848, and still paying well, Tuttletown, Angel's Camp, Murphy's, Douglas Flat, rich in placers, and afterwards richer in quartz deposits, most famous among which was one found accidentally by a prospector while hunting for his pack animal which had strayed from its accustomed haunts, and which on account of that circumstance received the unpoetic name of Jackass Gulch. For a time it was believed to be the richest region in California. From one of its first claims, only ten feet square, \$10,000 was taken, and a quartz ledge was also discovered. Some of the first specimens taken from this ledge are said to have been nearly two-thirds gold. Single miners made from \$100 to \$300 per day, simply by pounding

the rock in a mortar. A negro located a claim here from which he is reported to have taken \$100,000 which he soon lost in gambling and died destitute.

Carson Hill, a quartz lode, was discovered by a man named Hance in 1850. More than \$3,000,000 are believed to have been taken out of this ledge within three years after its discovery, and the means both for mining and reducing the ore were then of the crudest. For a time the ore was pounded in mortars, and sometimes pieces of it were so knit together with gold that cold chisels were used to cut it out of the ledge. Finally blasting was resorted to, when ore worth \$110,000 is said to have been blown out by a single shot.*

Angel's Camp was named for its discoverer, a man named Angel, who for a time worked in company with James H. Carson in 1848. It was not far from Carson's and much of the ground in its vicinity paid well. brothers took \$9,000 from two claims ten feet square, and found quartz at the bottom that yielded from \$150 to \$200 per ton. At Murphy's Camp some miles further up stream, pay dirt was found at a depth of twenty to thirty feet, or lying between large boulders that could be moved only with considerable effort; but the gold bearing gravel when reached was sufficiently rich to repay the cost of getting it. Douglas Flat, Vallecito, and Columbia, much farther up the Stanislaus were also very rich, and in the spring of 1850 it was estimated that more than six thousand miners were at work in and about them. Columbia was a particularly lively gambling center in the early years, having at one time one hundred and forty-three gambling houses, with a

^{*}John H. Hittell Resources of California, p. 51, 59, 62.

capital of a million and a half dollars. The diggings near it were of the dry variety, dirt being hauled in carts for a considerable distance in the dry season, to water; but there was so much gold in it, principally in the form of nuggets large enough to be conveniently separated by washing, that the process, though laborious, paid well—some cart loads yielding as much as \$1,000.

The principal camps on the Tuolumne in 1849 and 1850 were Big Oak Flat, Chinese Camp, Jacksonville, Montezuma, Poverty Hill, Algerine, Soulsbyville, and Sonora. One of the earliest locations in this region was made by a preacher named Woods, though apparently not the Reverend James Woods who later went to Stockton where he built the first Presbyterian church in that town. The discovery was made on a little stream called Wood's creek in his honor, and was in its time the richest ground in California.

The next considerable stream south of the Tuolumne is the Merced, flowing through the Yosemite Valley, then not discovered. Its upper part lay above the principal gold bearing level, and a few small placer deposits were found lower down, though they were soon exhausted. It ran through most of its course south of that peculiar deposit heretofore mentioned as lying across the courses of the principal streams, and being apparently the bed of an ancient river which flowed from northwest to southeast, and so beyond the range of the richer gold fields. In addition to the placers some quartz veins were opened, in which there were particularly rich spots, or pockets. In the neighborhood of Coulterville there were a number of these

veins in some of which were curiously colored specimens so richly marked with threads of gold as to be the finest material for quartz jewelry.

Some of these veins extended into the Mariposa grant, which Colonel Frémont had purchased of Governor Alvarado in 1847, and for a time the colonel and his friends believed he was, or soon would be the possessor of enormous wealth. He showed some specimens of the quartz to Bayard Taylor, at the United States hotel in San Francisco, just before the latter started for Monterey to visit the constitutional convention, and told him that the vein from which they came had been traced for more than a mile; that it was two feet thick at the surface, gradually widening and growing richer as it descended. Taylor's publication of this discovery, which he says made a great sensation, gave Frémont a reputation for a time, of being immensely wealthy and correspondingly increased his political prospects, though his dream of wealth was never realized. Some years later he began suits to eject the miners who had located on property which they supposed to be outside the grant, but which he had managed to have included in it by having its boundaries so changed as to include mineral instead of agricultural land which he had at first preferred. After vexatious and expensive litigation these suits were decided in his favor; but when he came to enforce his judgments, some of the miners resisted, erected barricades and defied the officers of the law. Actual battles were fought; some people were wounded and some killed. Frémont made many enemies and in the end gained little. The mines proved to be less valuable than they

had seemed, and after he had gained possession, he was forced to sell most of the grant for a mere fraction of what it had once seemed to be worth, and instead of being very rich, he found himself with almost nothing.

Although no very rich deposits, or even promising indications of gold were found by the early prospectors along the streams south of the Merced, they gradually pushed their explorations toward the south along the whole western slope of the Sierra Nevada, and even in the Coast range. A few small bars along the streams north of, or flowing into the upper San Joaquin, were found which paid well for a time, and a few years later some discoveries were made on Kern river, which induced many to try their fortunes in that direction, but few paving claims were found there and those were soon exhausted.

Beyond the Feather river toward the north the early prospectors were more numerous, and a larger number secured satisfactory results. Pearson B. Reading, who had discovered Trinity river in 1845, found paying ground there after Marshall made his discovery in 1848, and many prospectors were drawn to it in 1849 and 1850. Some of its bars paid well. The upper waters of Pitt river and the Klamath were also visited, and later enterprising prospectors crossed into Oregon and explored Rogue river and the Umpqua.

Some of these prospecting parties found little gold, but made other discoveries that were of value and deserve to be remembered. They in fact, pushed into every part of the state from its extreme northern to its southern boundary, and some of them suffered great hardships, or met with adventures more interesting

than any which writers of fiction have told.

The miners on the Trinity and all the other streams in the north had much difficulty in procuring supplies on account of their remoteness from San Francisco or Sacramento, the nearest points at which they could be obtained, and later in the fall of 1849 those at Rich Bar on the upper Trinity determined to send an exploring party to the coast, to find a way, if possible, to establish communication by water with San Francisco. The Indians had told them, as nearly as they could understand the answers they made to their inquiries, that eight days' journey toward the west they would find the ocean, and a great bay, which they supposed would prove to be that discovered by Heceta and Bodega in 1775 and named Trinity. On November 5th a party of eight men under the lead of Dr. Josiah Gregg, a plainsman and woodsman of experience, set off with horses, pack animals, and supplies supposed to be sufficient for the journey; but they were delayed so much in crossing the mountains, by the almost impenetrable redwood forests on their further side, and by trouble with the Indians, that when at last they reached the coast, their provisions were exhausted and they had lost most of their animals. They went north along the coast for a few miles, and not finding what they were seeking in that direction, they turned south. were nearly two months forcing their way along the shore through Humboldt and Mendocino counties to the settlements near Sonoma where they found relief. They met with little game and sometimes boiled and ate the skins as well as the flesh of the few deer and bear they were able to kill. They quarrelled much of the time. At the first large stream they were compelled

to cross, Gregg insisted on taking an observation to determine its latitude, having instruments with him for that purpose, but the others refused to wait, and set off to cross the stream with the boat or raft they had procured or made for the purpose, without him. He was obliged to plunge into the water to get on board. From this circumstance they called the stream Mad river, a name by which it is still known.

When they reached Humboldt bay they supposed it to be the Trinity, which had been discovered and which had been named seventy-two years earlier, and for that reason did not name it. They, however, selected a town site on its eastern shore, and named it Bucksport, in honor of one of their number, who had first seen the bay; it is now a suburb of Eureka.

Some Indians living near the next large stream they encountered supplied them willingly or unwillingly but abundantly with eels, and for that reason they called it Eel river, a name it still bears. Here they could no longer agree about the route to be followed; four of them insisting on continuing along the coast, where traveling had become very difficult, while the other four wished to follow the river to its head in the hills and so cross into the more open interior. The four who tried this route were overtaken by a heavy snow storm which delayed them several days. By the time they were able to resume their journey they were without food. Two days after leaving camp they found a party of eight grizzly bears in a little open space, and attacked them as a desperate resource for getting food. They killed one and wounded another so badly that one of them, a man named Wood, approached it in the confident expectation of being able to dispatch it with his knife, or clubbed rifle, when it seized him by the ankle, broke or disjointed his leg, and mangled it terribly with its teeth.

The four now had food but one of their number would be required to be carried the remainder of the journey or else abandoned. The other three were too weak from long privation to carry him, and it did not seem possible that he could endure the journey on one of their nearly worn out horses. Finally, when they had nearly eaten the bear, and been unable to kill any other game, it became necessary to resume their march. Wood's condition was not improved, but he consented to be bound on the back of a horse, telling his companions that if he died on the way, or they were compelled to leave him, they need not trouble to bury him. Although suffering the keenest torture at every step taken, the wounded man survived the tedious journey up the Fel river to its headwaters, across the divide to the Russian river to the home of a settler near Santa Rosa, where the party arrived late in January.

The other four encountered difficulties hardly less severe in following the coast, and their leader, Gregg, died on the way, falling from his horse from sheer exhaustion. Wood ultimately recovered from his injuries and went to San Francisco, while the other six members of his party reached the Sacramento safely.

While this party was on or near the coast several sailing ships left San Francisco to explore it, and open trade with the miners who were known to be at work in the interior, some of whom were supposed to be near it. Among these were the schooners Cameo, James K.

Whiling, General Morgan and Laura Virginia. The latter was chartered by a number of individuals among whom was Captain Joseph L. Folsom, and she was commanded on this expedition by Lieutenant Douglas Ollinger of the United States revenue service. She went north to Trinidad and beyond, noting the entrance to Eel river, and also Humboldt bay, though without finding a way into it. From Trinidad a party of six men, commanded by Elias H. Howard, one of Folsom's partners, was sent back along the coast to make explorations, and on the vessel's return, a boat party under command of second officer Hans Buhne, was sent to find and explore the entrance to the bay. This they did successfully, and later the Laura Virginia sailed into it. Her commander, being unaware of the visit of the Gregg party, and supposing himself to be the discoverer, named it Humboldt bay; a point opposite the entrance was named Buhne point in honor of the second officer.

The Laura Virginia on this trip also first explored the entrance to the Klamath river, while the other ships named visited nearly every accessible part of the coast between Cape Mendocino and Crescent City.

There were other exploring parties of gold hunters in these pioneer times, who traveled as far as the Gregg party, and suffered hardships as great; some of them made no report of their wanderings that has been preserved, and some, there is reason to believe, never returned to tell the story of what they saw and suffered. Only their unburied and whitening bones, found years afterward in the deep forest, cañon, or in desert waste, have told all that can ever be known of their fate.

While prospectors and explorers were thus pushing their way up the rivers and their numerous branches, those who were more patiently working the claims which they had fixed upon, were finding and adopting new appliances to facilitate their work. The earliest of these was the rocker, a mere wooden trough, from five or six to ten feet long closed at one end and open at the other, and mounted on rockers similar to those of a baby's cradle. At its upper, or closed end was a hopper large enough to hold three or four shovelfuls of earth, with a bottom composed of iron, tin, or even rawhide, perforated with holes large enough to allow loose sand or earth to pass through, while larger lumps and stones were excluded and allowed to roll down a grating of longitudinal bars, sustained a few inches above the bottom of the trough. Across this bottom a few transverse strips of wood were fastened to catch the gold, while the sand and dirt were washed over them. This little machine was operated by placing a few shovelfuls of dirt in the hopper and then pouring water over it, and rocking it with a sufficient motion to shake the loose earth down through the grating, while the stones rolled out at the bottom. Where possible, a steady stream of water was let into the hopper by a hose, or by some such contrivance; when this was not possible, and where two or more miners worked together, one usually poured the water and did the rocking, while the others did the shovelling.

The first improvement on this contrivance was really an enlargement of it called the long tom, which was an inclined trough sometimes twenty or thirty feet in length, gradually widening from the top toward the bottom, so as to allow the earth and gravel to spread out into a wider and shallower stream as it passed down toward the outlet. It had narrow strips of boards nailed across it as the rocker had, and toward the end of 1849 the miners began to learn to use quicksilver both in the tom and in the rocker. At that time quicksilver sold at the mines at four dollars a pound. A little of it was poured in just above these transverse bars, where it took up the finer as well as the coarser particles of gold, as the dirt and sand in which it was hidden were washed over them. After a day's washing the amalgam of gold and quicksilver would be removed. the quicksilver squeezed out through a buckskin bag, and made ready to be used again, while the gold would be separated from what remained by heating. Bayard Taylor saw miners using this process, on his second visit to the Mokelumne in November, 1849, with so much success that no gold at all could be found in dirt after it had been once washed, while as much as \$1,000 had been washed out of dirt which had previously yielded \$10,000 by the old process.

The next improvement on the long tom was the sluice, which was simply a longer and much wider box, with transverse bars holding quicksilver, and supplied with a continuous stream of water from a flume or ditch, or perhaps by means of wheels. These wheels became very numerous along all the streams, particularly where there was a good current. They resembled those of a side wheel steamer, with paddles at the ends of long arms, which also carried buckets by means of which water was raised and poured (with more or less regularity) into the sluices.

The building of flumes and ditches, particularly for carrying water to the dry diggings and to the higher bars and gulches along streams which carried but little water in the summer months, early became a profitable business. At first, as was natural, these flumes were small affairs and carried the water only short distances; but in time they took on a more permanent character, were several miles long, and required large investments of capital. As early as 1855 there were thirty of these canals in Amador county, with a total length of 355 miles, seventeen in Calaveras with a length of 325 miles, forty-four in Nevada total length 682 miles, twentynine in Placer total length 498 miles, seventy-nine in Sierra length 310 miles and sixteen in Humboldt. The total capital invested in enterprises of this kind in mining camps that year is reported to have been \$6,341,700. This investment was greatly increased during the years when hydraulic mining was at its height.

The miners early learned that the richest gold bearing dirt and gravel was to be found near bedrock, or in the crevices of rock in the bottoms of rivers. The prospectors sought for contrivances in order to reach them quickly. Diving armor was tried for getting at the bottom of the deeper streams where the current was strong—but without much success. A metal tube with a device inside it for boring through loose earth, sand, or even fine gravel, was used with greater success. Some even put faith in such devices as the divining rod and magnets. Some are said to have resorted to incantations such as are used by savages. More patient and systematic workers dug channels to let the water through and across the narrow obstructions where

there were considerable bends in the streams, so as to leave their floors exposed for a considerable distance. These were carefully examined, the miners picking out particles of gold from the crevices in the rock, with their knives, often securing very handsome returns for their labor. Where it was not possible to expose the bottom of the channel in this way, wing dams or coffer dams were built so as to leave part of the channel exposed—sometimes for a distance of only a few yards and often on a much larger scale, with proportionate returns. One of those on the lower Mokelumne in the fall of 1849 left a part of the channel bare for three hundred yards. The builders were just beginning to realize a handsome return for their labor, when their work was all swept away by a sudden rise of the river. They had realized \$1,700 from their last day's work, in which they had cleaned up only a small part of the rock which had been exposed. One of the largest undertakings of this kind was to turn the whole of Feather river into a new channel nearly a mile long, cut most of the way through solid rock, just above Oroville in Butte county. It carried a stream forty feet wide and seven feet deep.

Flume building was begun as early as 1850, and apparently in several places, at about the same time. One of the earliest flumes was built at or near Nevada City, though another was building, or in use at Rough and Ready at about the same time. There were also flumes in use at Coloma and at Yankee Jim's at a very early time.

The earliest attempt at hydraulic mining appears to have been made by a Frenchman named Chabot

at Buckeye Hill in Nevada county. He used an ordinary hose to lead water to his claim, and his experiment probably resembled real hydraulic mining only in a very distant way. Later E. E. Mattison, by reinforcing his hose with a netting of stout cords, and using a wooden nozzle applied water to ground previously mined by the coyoting process, under sufficient pressure to wash down a bank of earth or gravel without the use of spade or pick. Other improvements were gradually made, first by using sheet iron and then wrought iron pipes, and enlarging and strengthening the nozzles until the giants of later days, which tore down hills, or stripped their whole tops and sides of earth, were perfected.

Profits from flume and sluice mining were particularly large in the dry diggings—in ground lying too high to get water to it from the natural flow of the streams. This ground was often mined by the process called coyoting—that is by digging holes in the sides of the hills which resembled those made by the coyotes; and also by shafts sunk through an overlying bed of barren earth, clay, or perhaps lava, beneath which lay the blue gravel in the bed of some ancient stream. The sides and surfaces of many hills were covered with the gold bearing earth, which yielded handsomely when water was brought to it.

Experiments at quartz mining were begun as early as 1850, though without much success. The earliest were made at or near Grass Valley. The prospectors in that and other regions realized that the ledges in some places contained gold in large quantities; but they had no means of testing them except by pounding

the rock in natural stone mortars, and then washing it in their pans. Large iron mortars, with pestles fastened to poles or branches of trees which by their spring aided in lifting, and so reduced the labor of operating them, were later used. A similar contrivance had been used by settlers much earlier for pounding corn, and in churning, so that its adaptation to quartz crushing by the early miners was very natural. mill operated by a small steam engine was set up at Grass Valley in 1851, and a water power mill appeared during the following year. The clumsy arastras, long used by the Mexicans, were also tried, but all the earlier experiments at quartz mining proved unprofitable, even where the ore was richest, and those who made the earliest experiments lost their investments, some of them amounting to more than \$1,000,000. One English company, managed by Sir Henry Hartley, sent over machinery from England which was set up in Bear valley, in 1853; but it was not successful and was subsequently sold by the sheriff to satisfy creditors. By 1855, however, methods had been so much improved that quartz mills began to be profitable, and mining assumed the character of a settled business. By the end of that year there were fifty-nine mills in California, crushing 222,000 tons of ore, with an output of \$4,082,100 per year.

As there was no law regulating the size of claims, or for protecting the lives or property of the early miners, they made laws for themselves, and generally administered them without much difficulty. The earlier customs, modified by experience and changing conditions, gradually grew into laws and were respected

as such. The size of claims where the ground was richest, was usually limited to ten feet square. Some are mentioned as of eight paces square, some of thirty feet, eighty feet, and even one hundred and eighty feet square, the rule differing on different streams and sometimes in neighboring camps on the same stream. After the ground had been once dug over claims one hundred feet square were allowed. A discoverer was universally allowed two claims, or a claim twice as large as any other. No other person could take more than one, or acquire it except by purchase; and in some camps the number a single individual could purchase was limited. An unworked claim was forfeited if neglected for so many consecutive daysthe number differing in different camps—though if the claimant left his tools on it they were not molested and made his title good for a certain time. When a claim was made its corners were usually marked; a recording officer was appointed and every person making a claim was required to report to him, giving him his name and a description of the ground claimed. As the title to the soil was vested in the government, and no means had been provided by which individuals could acquire it, it was understood that a claimant acquired nothing but a right to get what gold he could out of a claim, and this right was not disputed. Transfers of claims were therefore made by bills of sale, and these were filed for record with the recording officer. If a miner was sick, and his partner was required to nurse him, or for any reason was unable to do work enough on his claim to protect his title, nobody questioned or disturbed it.

STEPHEN J. FIELD

Born at Haddam, Conn., November 4, 1816; died at Washington, D. C., April 9, 1899; came to California in 1849. From 1859 to 1863 he was chief justice of California. From 1863 to 1897, associate justice of the Supreme Court of the United States; member of the Electoral Commission in 1877. California has produced no more eminent man than Stephen J. Field. To him came such opportunity for service to the state as has fallen to the lot of few, and well he improved it, indifferent to the perils he encountered. Twice he was challenged to mortal combat and thrice was his life attempted. At the time he came to the bench there was a vast amount of litigation growing out of land questions. He held that the United States was bound to protect Mexican grantees in the enjoyment of their lands. He also held in mining cases that the customs and regulations adopted by the miners, when not in conflict with the constitution and laws of the United States, should govern; also that gold and silver, like any other product, belonged to the land where it was found. These decisions caused him to be bitterly denounced.

DESCRIPTION OF CALIFORNIA.

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In many of the camps an alcalde was chosen whose authority was almost as absolute, and was as generally unquestioned as it had been by the Californians before the Americans came. If he happened to be a man of sufficient courage and sound judgment to decide questions submitted to him with fairness and firmness, his rulings were usually accepted by the defeated party as gracefully as by his more fortunate adversary. Stephen J. Field, later of the supreme court of the United States, was alcalde at Marysville in 1849, and has related some amusing experiences in that office in his "Personal Reminiscences of Early Days."

The ardent hope of the claim holder, as well as the prospector, was to come upon some rich deposit of dust, or a big nugget in which he might realize a fortune in an instant. Some nuggets of surprising size were found in these early years, the largest apparently being one of one hundred and forty-one pounds four ounces of almost pure gold, found in 1854. One of perhaps equal value was found by some Chinamen, who cut it to pieces with cold chisels and sold it bit by bit with their dust, fearing that it would be taken away from them if shown to anyone in the shape they found it. A single lump weighing one hundred and six pounds was found in Baltimore ravine near Auburn, and another of one hundred and three, and still another of ninety-six pounds near Downieville. A seventy-two pound chunk was found near Columbia, one worth \$10,000 at Ophir in Sutter county, one of over fifty pounds on the Yuba, one of fifty-four pounds near Dogtown, Butte county, one of fifty-one pounds near French ravine in Sierra county, and one of eighty

pounds from the American river. Pieces weighing from ten to forty pounds have been found in many places, and sometimes in the most casual manner. A farmer, strolling through his pasture on or near the lower Mokelumne one Sunday morning, is reported to have kicked at what appeared to be a stone lying in his path, but which proved to be so heavy that he examined it more carefully. It proved to be a lump of almost pure gold worth several thousand dollars.

Many lucky miners made their fortunes within a few months after arriving in the country in 1849 and 1850. Many others who were more easily satisfied—who came to get enough to buy a farm near that on which they had been born, to pay off a mortgage, or to start in some business for which they had a fancy, realized their hopes, and returned east within a year. One of these was the late Philip D. Armour, the famous beef and pork packer of Chicago. He came, as he was not averse to tell in later years, hoping to get money enough to buy a farm near that owned by his father in New York state. He got it by wood chopping, not by mining; but when he returned after his experience among the hills of California, the farm no longer pleased him, and he went to Milwaukee to begin life in a new field. Many others who, like him, had been as successful as they had hoped, returned without waiting to get richer. The early steamers carried them away in increasing numbers, until they were almost as well loaded on the return as on the outward voyage. Isaac Foster, who has already been frequently quoted, found the Republic, on which he sailed for the isthmus in September, 1850, carrying one hundred and nine passengers. Most of them were reticent about their success, but while "some were returning with more and some less," he seemed convinced that the average had been fairly satisfactory.

But if many succeeded, the number of those who failed to do so was much greater. Rich as the placer deposits were, the rich places and big nuggets were not so numerous that all could find them; nor did all search for them with equal intelligence and persistence. While a lucky find was occasionally made without any particular skill or effort, the richest results fell, as they usually do, to those who sought most persistently. And not all of these succeeded. Many worked faithfully in ground seemingly as promising as that which yielded best, and got nothing, or scarcely enough to pay expenses. Not a few who did well early in their experiences, squandered all they had made and more, in trying to find other rich leads, and did not find them. Many lost their health and even their lives. The number of those who died in their tents or cabins, or even under the open sky, during the fierce struggle of the first years after gold was discovered at Sutter's mill, will never be known, and it is probably much larger than has ever been guessed. Life in the mines was wholly different from that most of the miners had been accustomed to, and even their experience of living in the open air while crossing the plains had not done much to prepare those who had had it for what they were to encounter in the hills. The climate was new to them; their food was often insufficiently cooked; they exposed themselves in needless ways and under most trying circumstances. Some of them worked beyond their strength. Many worked under the burning sun of midsummer, standing to their hips in the icy water of the rivers, in order to get abundant water for their pans. They often slept in wet clothing, or on damp ground, and many resorted to whiskey as a defense against disease. The result was that fever attacked them, particularly that which accompanies the ague, the seeds of which some at least had brought with them. Dysentery, flux, scurvy, meningitis, the cholera, which they had never been entirely able to escape, either on shipboard or while crossing the plains, and pulmonary diseases were in every camp. Medicines were nearly always wanting, and proper nursing impossible, so that many were helpless, and their cases hopeless when first attacked.

The winter rains began early in 1849 and were unusually heavy. The rivers became torrents, and most of the camps along their borders, on the flats and bars. were flooded and made uninhabitable. The miners were driven from their claims, and it was soon apparent that they must remain idle for some weeks, possibly In many if not most of the camps, there was only a small supply of provisions, and it was next to impossible in some of them to get more. The wagons which had been depended on to bring them were mired in the mud of the trails; some had been swamped or swept away in attempting to cross the swollen rivers. Broad stretches of country along the Sacramento and San Joaquin and the lower parts of streams flowing into them, were covered with water. Even pack animals could not transport their loads through the miry places they were frequently required to cross.

Since the necessaries of life in sufficient quantity could not be brought to them, the miners in large numbers were forced to go where provisions were; so after helping to pack flour and bacon from the nearest stalled wagons to their camps, many started for the towns. To those who had well-filled purses this was not an altogether deplorable alternative. They were glad to have an opportunity thus forced upon them to revisit the world they had been accustomed to; to sleep in beds once more; to get something better than camp fare, and have a few weeks of rest and recreation.

These found that great and surprising changes had taken place during the few months or weeks they had been in the mines—notably at San Francisco, Stockton, and Sacramento. But great as they were in these places, they were hardly more striking than many they encountered elsewhere. Thriving towns had sprung up where there had been scarcely a sign of human habitation when they had last seen them. Marysville, near the junction of the Feather and the Yuba, named for the wife of C. Covillaud, its founder—who had been Mary Murphy of the Donner party—was outstripping Vernon at the mouth of the Feather, and its nearer neighbor, Yuba City, and now claimed a population of three hundred. Small steamers were finding their way to its landings—the same at which the rowboats and barges had touched when its site was known as Nye's ranch only a few months before. It was already a center of supply for the mining camps on the Yuba and Feather, on some of which thriving towns were also well started.

The chief camp in the famous dry diggings on the south fork of the American, which had acquired the unsavory name of Hangtown, because three Mexican robbers had been lynched there early in 1849, was thriving in spite of its gloomy reputation, and would soon be known more appropriately as Placerville.

Sonora on the upper Tuolumne, which in 1848 had been the headquarters of the Mexican miners—who were mostly from Sonora—had grown to be a city of nearly five thousand inhabitants and seemed likely to continue to prosper. It was the center of a very rich region, and the American towns which later sprang up in its neighborhood were hardly yet beginning.

Benicia, whose founders had fondly hoped would supplant San Francisco because of the advantages of its harbor, had prospered for another reason, though not as its chief promoters had hoped. It lay on the main land route as well as the water route between San Francisco and Sacramento, and while it got little or no benefit from the great river trade, all travelers by land were compelled to pay tribute to its ferry, and it also enjoyed a considerable general trade. While it had fallen behind in the race with its stronger rival, it had lately found new reason for hope. Early in 1849 Commodore Jones had sounded its harbor, and later brought his entire fleet, led by the Southampton, to it, seemingly with the purpose of making it the main naval rendezvous on the coast. Later General Smith, commanding the land forces in California and Oregon, had discerned what he considered the superior advantages of its location, and selected sites there for barracks

BENICIA IN 1853

From a sketch by Charles Koppel in Geological Report of William P. Blake, Vol. V, Pacific Railroad Survey. The town was laid out on the Rancho Nacional Soscol by General Vallejo and Robert Semple and named Francisca for Vallejo's wife, Francisca Benicia Carrillo. Later when Lieutenant Bartlett ordered the substitution of the name San Francisco for Yerba Buena on all public documents of that town, Francisca was changed to Benicia, to avoid confusion. It was thought that Benicia would become the great commercial city on the bay of San Francisco and in 1849 General Persifer F. Smith removed the general depot from San Francisco to Benicia and stationed two companies of infantry there.

DEFINITION OF CALABITRATA

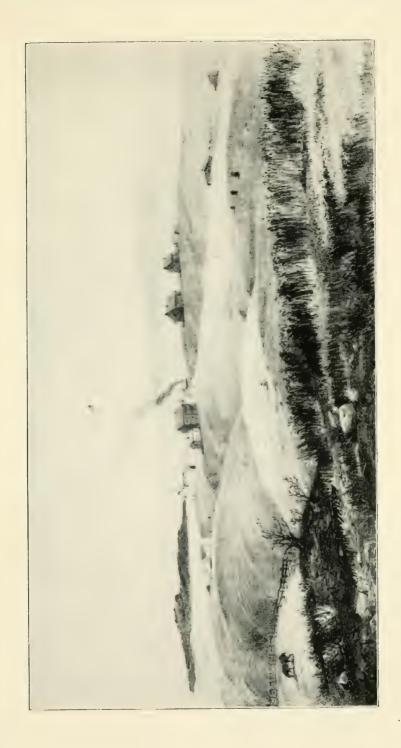
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an arsenal, and quartermasters' warehouses. So it was to be, and was already becoming, the military and naval headquarters, and had a population of about one thousand people.

The pueblo of San José was escaping from the thraldom of ancient Spanish customs and taking on new life. Not a few Americans had settled there, or near there, before gold was discovered; and when the constitutional convention decided that the first session of the legislature should be held there, it began to bustle with surprising activity. Two weeks after the decision was made, Bayard Taylor passed through it on his way to San Francisco, and found it had nearly doubled in size since he had last seen it six weeks earlier. Buildings of wood and canvas were going up on every hand, the streets were thronged with people, and piles of goods were awaiting storage in buildings not yet ready to receive them.

And all this activity was not due to the newly arrived settlers alone. The gold pouring in from the mountains was making a change in the lives and habits of the Californians themselves. Many of them had been to the mines, where their labors were well rewarded. They were beginning to realize that they were no longer subject to the restrictions which the ancient pueblo regulations had imposed upon them. The old trade regulations were broken down, and for the first time in the lives of many, they had both the opportunity and the means to buy as they wished. That this unwonted advantage and privilege should have seemed unreal, and been made use of timidly at first, by a people who had never thought of obtaining it, is not surprising.

Josiah Belden, who came to California in 1841, was keeping a little store in San José at the time and had gained the confidence of most of its residents, having learned to speak their language. He says that as they came in from the mines they would bring their bags of dust to him to be weighed and their value computed. Then they would turn them over to him for safe keeping and begin to select such goods as they most needed, or as pleased their fancy. After making a few selections they would ask him what the total amounted to and how much gold they would have left after paying for them; then they would make more selections. They rarely or never asked to see their gold again after giving it into his keeping, being glad, apparently, to get goods for it lest it should lose its value.*

The methods for ascertaining the total amount of gold produced by the mines of California during these years when all, or nearly all of it was obtained from the placers, was very crude. Much of it was carried away by home-going miners who prudently took care to let no one know how successful they had been; still, as nearly all they carried away ultimately found its way to the mint or to assay offices, it was possible to ascertain, with approximate accuracy, the value of all except that carried to foreign countries, and of this the amount was considerable. In later years when the express companies had established their business and gained the confidence of the miners, it was possible to ascertain the totals more satisfactorily. The estimates for the earlier years do not vary greatly, and they place the output for 1848 at \$10,000,000, that of 1849 at

^{*}Josiah Belden-MS. Bancroft Library.

\$40,000,000, that of 1850 at \$50,000,000, that of 1851 and 1852 at \$60,000,000 each, and that of 1853, when the yield was the greatest in the history of the state, at \$65,000,000.

After 1850 the methods of mining gradually began to change. The principal deposits and best paying leads had been discovered, and a large part of the ground in the principal gold producing area had been dug over at least once—in some places more than once. It was only in the outlying and sometimes distant regions that prospectors were making discoveries, and in the settled camps they more and more rarely worked singly or in pairs. There was greater need for cooperative effort. The building of dams and ditches, of long flumes to carry water across cañons or wide depressions where ditches were impracticable, required combined capital and cooperating muscles. The gradual development of hydraulic and quartz mining also demanded more methodical operation, more capital and more intelligent direction.

Then, too, many of the miners and prospectors learned after a few months' experience in the hills that the chances of finding sudden fortune were not as great as they had hoped; that life in the camps lacked many of the attractions they had expected to find in it, and that there were other and surer ways of wooing fortune, some of them less unlike those they had earlier been accustomed to. Traders were generally doing a thriving business and making handsome profits. Employment in various lines was easy to find and at remunerative wages. Men in many occupations were regularly making more money than the average miners, and the

opportunities for speculation in the cities and towns were sufficient to satisfy the most ardent gambler. So, many who were driven from the camps to the cities by the heavy rains of 1849, or who left the mines for other reasons in later years, did not return to them, or if they did, went only to work out the claims they had taken, or to dispose of them to others. These others came in increasing numbers to take their places, and after a like experience, turned their attention to other employments for which they were better suited.

CHAPTER VIII. ADMITTED TO THE UNION



N the very day the constitutional convention completed its labors and adjourned, Governor Riley issued a proclamation directing that a general election should be held on November 13th, when the qualified voters would pass judgment on it, and a governor, lieutenant-governor, two members of congress, and members of the first state legislature should be elected. On the same day, and while everybody else in Monterey was preparing for the grand ball held that evening, a messenger was hurried away to San Francisco to get copies of the proclamation, constitution, and an address recommending it to the people, which had been prepared by a committee of which Edward Gilbert was chairman, printed in English and Spanish, so that they might be distributed in time in all the districts and mining camps from San Diego to the Oregon line.

As there were no party organizations yet in existence, and no party machinery for calling conventions or making nominations, the way was open for aspiring politicians everywhere and anywhere to seek such places as they aspired to, and get such support as they could. No party "rings," "cliques" or other offensive combinations existed; the running was open to all. The names Whig and Democrat, by which the two great parties in the nation were then known, were used, but were only lightly regarded. There probably never has been, and never will be an election held in this state, or any other, in which party affiliations counted for so little.

William M. Gwin had made it known from the time of his arrival that he was a candidate for the senatorship. It was amost as generally known, or suspected that T. Butler King, the president's confidential agent, aspired to the same office; and other candidates were Colonel Frémont, Captain Halleck, the secretary of state, Thomas J. Henley, and Dr. Robert Semple, late president of the convention.

For the governorship Peter H. Burnett had been making an open and more or less active campaign for some months. He had taken a conspicuous interest in the pre-convention discussion of plans for organizing a government; attending most of the meetings held in Sacramento and vicinity, and advocating the Benton, as opposed to the Buchanan theory. Later he had removed with his family to San Francisco, where he had been a member of the legislative assembly during its ineffectual struggle for recognition, and later still had gone to San José. Other candidates were John W. Geary, then first alcalde of San Francisco; William M. Steuart, John A. Sutter, and Winfield S. Sherwood, all of whom had been members of the constitutional convention.

Most of these candidates, as well as those for places in the legislature and congress, made an active canvass particularly in the mining camps and other populous localities. As they were recommended by no party, and comparatively unknown to the great mass of the voters, it was especially desirable for those who had come to the state for the sole purpose of getting office, to meet and make the acquaintance of as many voters as possible before election day. So parties of candidates were made up who traveled by conveyances of their own from town to town and from camp to camp.

EDWARD GILBERT

Born at New York in 1819; killed near Sacramento by J. W. Denver in a duel in 1852; came to California in 1847 as lieutenant of Company H, New York Volunteers—Stevenson's regiment. Gilbert was the first editor of the Alta California, was a member of the Constitutional Convention, and was the first congressman from California. An editorial in the Alta criticising Governor John McDougall drew out a letter which led him to challenge General James W. Denver. Gilbert was regarded as a man of unusual ability and promise.

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Bayard Taylor met one of these on the Mokelumne, in which there was a candidate for every office except one. All carried their blankets, spreading them under the trees at night if the miners could not give them shelter in their tents or cabins, as they usually did.

Active as these campaigners were, they were able to show themselves to only a part of the voters, and many, perhaps a majority of those who voted for or against the candidates for congress and state officers, did so without knowing much about them. Bayard Taylor, who had carried the notice of election, copies of the constitution, and forms for reporting the vote cast, to Volcano, where he arrived only the day before the election was to be held, says about a hundred votes were cast for a candidate for the legislature whose last name happened to be same as his own, the voters supposing that he was the candidate, and desiring to compliment him for what he had done for them.

Rain fell almost continuously during the early part of November, making travel from camp to camp in the mountains most disagreeable. Election day was very stormy and for that reason only a light vote was cast. The population of the state was believed to be fully 100,000, and very largely composed of men of voting age—for among the immigrants of 1848-9 there were comparatively few women; yet the total vote for the constitution was only 12,064, and 811 against it—or 12,875 in all. For governor, Burnett received 6,716, Sherwood 3,188, Sutter 2,201, Geary 1,475, and Steuart 619. Edward Gilbert and George W. Wright were elected to congress.

The election appears to have been conducted everywhere in a most orderly way. Where none of the proper officers were found to open the polls, receive and count the ballots, men of some sort of experience in such matters took charge and managed everything fairly and openly. Many of the voters were unknown to them; some who were entitled to vote under the treaty with Mexico, could not understand English, and their right to vote was explained to them with difficulty. Some from foreign countries who had no sort of right to vote, doubtless did so. One instance is related where one such person boasted to all who would listen to him, of having arrived in a country where he could not only dig more money than he ever dreamed of from the hills, but where he could also help choose those who were to govern him.

The schedule had provided that the votes cast should be returned, canvassed, and the result announced by or before December 10th, and that the legislature should assemble on the 15th, if it was found that the constitution had been adopted. On that day there were not enough members of the two houses in San José to form a quorum, but on Monday the 17th enough had arrived, and their first meeting was held in the new building which the citizens of San José had prepared, agreeable to their promise made to the constitutional convention six weeks earlier. It was a two story adobe structure, forty by sixty feet in size, and stood on the east side of Market Square. Its owners had been building it for a hotel, but when it became necessary to make good the promise to have a suitable building ready when the legislature should

STEPHEN CLARK FOSTER

Born in Maine in 1820; graduated at Yale in 1840; was teacher and medical student in Virginia, Alabama, and Louisiana; practised medicine in Missouri, and was a trader in New Mexico and Sonora. He came to California with the Mormon battalion, having enlisted as interpreter at Santa Fé. He was alcalde of Los Angeles, 1848-49; mayor 1854-1856; member of Constitutional Convention, 1849; prefect of the district; member of state senate, 1850-53. His wife was Merced, daughter of Antonio Maria de Lugo. Foster was a man of good natural ability, finely educated, and of good standing.

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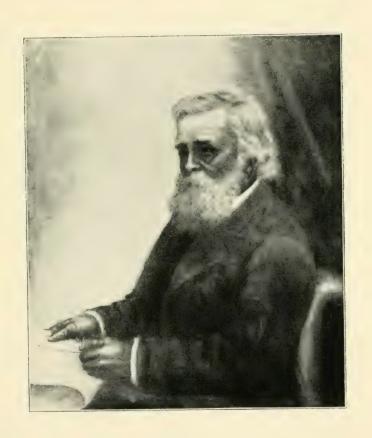
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assemble, they had turned it over to a committee of citizens, under whose direction it was roofed, finished, and furnished, and a veranda built along the entire front. The whole second story was assigned to the assembly, which consisted of thirty-six members, while the sixteen members of the senate were to have the largest of the four rooms in the first story, the other three being for offices and committee rooms. The senate chamber was not ready for occupation by that body when it assembled, and its sessions were held for some days in a private house.

Members of both houses met to take the oath of office in the assembly chamber, a large room, with rather a low ceiling, lighted by five windows on its eastern and western sides, and plainly furnished. Many, if not most of them were wholly unknown to each other. Some had only recently arrived from most distant parts of the country. Only a comparatively few had been members of the constitutional convention, most noteworthy among these being B. S. Lippencott and J. L. Vermeule of San Joaquin, E. O. Crosby of Sacramento, General Vallejo of Sonoma, and Pablo de la Guerra of Santa Barbara in the senate, while in the assembly were Joseph Aram and Elam Browne of San José, H. A. Tefft of San Luis Obispo, B. F. Moore of San Joaquin, and J. M. Covarrubias of Santa Barbara. Some of the leading spirits and most influential members of the convention, like Myron Norton, H. W. Halleck, S. C. Foster, J. D. Hoppe, J. P. Walker, J. R. Snyder, and W. S. Sherwood members of its principal committee, J. M. Jones who led the way out of the boundary difficulty so success-

fully, Francis J. Lippett who so frequently presided over the committee of the whole, W. E. Shannon, L. W. Hastings, Charles T. Botts, and O. M. Wozencraft had either been defeated or had not sought election. Old and influential Californians like José Antonio Carrillo, Miguel de Pedrorena, and Antonio Pico were also wanting, as were such earlier American settlers as Abel Stearns, Julian Hanks, and T. O. Larkin. In their stead had come John Bidwell, leader of the first overland party in 1841, Nelson Taylor, Selim E. Woodworth, Nathaniel Bennett, E. K. Chamberlin, E. Heydenfeldt, and C. Robinson members of the senate, and John Bigler, Edmund Randolph, A. P. Crittenden, P. B. Cornwall, J. S. K. Ogier, H. C. Cardwell, John T. Hughes, E. W. Mc-Kinstry, R. W. Heath, and James C. Moorehead of the assembly.

The oath of office was administered to members of both houses by Kimball H. Dimmick one of the judges of that superior court, the members of which had been chosen when the delegates to the constitutional convention were elected. The next day the votes cast for governor, lieutenant-governor, and members of congress were canvassed and the result declared; and on Thursday the 20th, Governor Burnett and Lieutenant-Governor McDougal were duly installed, each signalizing the event by making a speech. When Governor Riley was formally notified of what had been done, he immediately proclaimed the new government duly organized and installed, and his own at an end.

That government, carried on as it had been since the ratification of the treaty with Mexico, without

BENNET RILEY

Brigadier-General United States Army and governor of California.

From an oil painting in the house of the commandant at Fort Riley, photographed for "The Beginnings of San Francisco."

General Riley was born in St. Marys county, Maryland, about the year 1790; died June 6, 1853. Riley entered the service as ensign of Forsyth's Rifles, January 19, 1813, and joined the army at Sacketts Harbor in the spring of that year; served through the war and was distinguished for heroic courage, coolness in battle, and natural sagacity. He served with credit on the frontier and in the Indian wars; was brevetted brigadier-general for gallant conduct at the pass of Cerro Gordo and major-general for gallantry at Contreras, Mexico.

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authority of law, and only impliedly by consent of the people, had been remarkably efficient. Without express authority it had collected an ample civil fund from duties on goods that under the law ought not to be admitted without paying them; had successfully prevented the misappropriation of this fund by those claiming superior authority; had applied it to the necessary expenses of administering such law as there was in the country, and to the cost of organizing and establishing a government by the people themselves, and would account for a handsome balance. Although it had opposed, in a seemingly arbitrary way, some efforts of the people to manage their affairs, it was now seen that this had been done only in the interest of order, and for the purpose of directing their efforts more certainly to a successful conclusion. Without General Riley's wise and courageous direction of affairs it would not have been possible to organize a state government as promptly as it was done, and as soon as the new government was successfully installed, the value of his services began to be more fully understood, and more generally recognized than they had been. Expressions of confidence and esteem came to him from various quarters. Citizens of San Francisco, some of whom had bitterly resented his interference with their affairs, presented him with a gold snuff box. The city of Monterey gave him a solid gold medal weighing a pound, on one side of which was engraved the arms of the city, and on the other the words: "The man who came to do his duty and accomplished his purpose." Just before he left California in July, 1850, a public banquet was given him,

at which this medal, together with a heavy chain made from nuggets just as they came from the mines, was

presented him.

The first business to receive the attention of the legislature, was the election of the two senators to which the state would be entitled if admitted to the Union. In addition to the interest usually shown in elections of this kind, it was deemed important at this first session, to make the election at once, so that the senators and the representatives might go to Washington, and do what they could to impress upon those who must decide the matter, the urgent need there was for admitting the state at the earliest possible day. The conditions were unusual, the action taken to form a state government had been without precedent, and all realized that men who were familiar with the conditions and with the urgent reasons for doing what had been done, would be able to accomplish much in making others understand the peculiar necessities of the case.

So at five o'clock on the afternoon of Thursday December 20th, the day on which the governor and lieutenant-governor were installed, the first ballot was taken in joint session of the two houses. Forty-six members were present, and each as his name was called rose in his place and voted for two of the seven candidates. The result showed twenty-nine votes for Frémont, twenty-two for Gwin, twelve for Halleck, eleven for Henley, ten for King, five for Geary and three for Semple. Frémont alone had received a majority on this first ballot, and was declared elected. On the second ballot Gwin received the same vote as before, while Halleck gained three, but neither had a

majority. A third ballot was taken in which Gwin was elected by the narrow majority of two votes. This first election of senators was therefore concluded at a single session, something that rarely happened in after years, either in California or any other state.

The governor had prepared a message in which he enumerated many of the acts that were most urgently required to provide the state with a government. It was without county or township organizations, without means to levy or collect taxes, without state officers, without courts, in fact without a system of laws either for punishing criminals, or protecting personal or property rights, or the means of enforcing them. The entire machinery for creating and installing a government in all its departments, for the state, its counties, and its cities, was to be created and put in operation; but before proceeding to any part of this vast and complicated work it was necessary to determine whether it was expedient to attempt it at once, or wait until the state was admitted. He called attention to the fact that Missouri and Michigan had organized their governments and set them in motion before admission; and as congress had made no objection in their cases he declared his belief to be that none would be urged against California, where the need for government was so much greater and more urgent.

The legislature was of the governor's opinion. Indeed the matter had been determined before the legislature met; and if it had not been, the action of Governor Riley in surrendering his authority as soon as the duly elected governor was installed, left no other alternative. The legislature must accept the respon-

sibility thus devolved upon it, or anarchy would ensue. Neither life nor property would be safe; in fact there had been, and were still, indications in various places that both were already too lightly regarded.

The constitution provided that the governor should nominate the first secretary of state, the nomination to be confirmed by the senate; and that the legislature should elect the first treasurer, controller, attorneygeneral, and surveyor-general, although their successors should be chosen at the general state elections for governor and lieutenant-governor. Accordingly William Van Voorhees, a member of the assembly from San Francisco, who had been sent to the state by the post office department in 1848 to establish post offices and arrange for the transportation of the mails, was nominated and confirmed as the officer first named. At a subsequent joint session, held on the 22d, Richard Roman was chosen treasurer, John S. Houston, controller, E. J. C. Kewen, attorney-general, Charles J. Whiting, surveyor-general, S. C. Hastings, chief justice of the supreme court, and Henry A. Lyons and Nathaniel Bennett associate justices.

The state administration being then organized, the legislature proceeded to the enactment of a code of laws; and in this work it was materially assisted by the statutes of older states, many of which, with only trifling changes, were transferred to the first statute book of California. Laws defining the duties and responsibilities of state and county officers; for levying and collecting taxes; for the erection of public buildings and keeping public records; for the creation of corporations, civil and municipal; defining crimes, fixing

S. CLINTON HASTINGS

Born at Watertown, Jefferson county, New York, November 22, 1814; died at San Francisco, February 18, 1893; came to California, overland, in 1849. He had been in Congress in 1846 and was appointed chief justice of Iowa in 1848, but resigned that office to come to California. The first legislature of California, 1849, appointed him chief justice of the State and he served the term of two years. In 1851 he was elected attorney general and served two years. Leaving office he continued his private law practice and became also a member of the banking house of Henley, Hastings and Company of Sacramento, and, later, was closely associated with Lloyd Tevis and J. B. Haggin. In 1878, he founded the Hastings Law College and deposited \$100,000, in the State Treasury, the interest of which at seven per cent. was to be used as compensation of instructors. It is affiliated with the University of California whose president is president of the faculty.

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penalties, and regulating the procedure in criminal cases; for probating wills and administering the estates of deceased persons; concerning conveyancing, the forms of deeds, mortgages, and other instruments affecting title to real property, bills of exchange and promissory notes, liens, etc., and even laws pertaining to marriage and divorce, may well be the same in many states—possibly it would, in fact, be better if they were so in all. At any rate a large number of laws which had grown out of the experience of people in the older states, and been approved by the test of time, were adopted by this first legislature with very little change, and a great part of them remain unchanged to the present day.

The state was divided into twenty-seven counties—some of which included two or three counties of the present day—and designated their county seats,* and into nine judicial districts, two or more counties usually being assigned to each. A series of acts providing for the incorporation of cities and towns was passed and special charters were granted to San Francisco, Sacramento, Los Angeles, San José, Monterey, Santa Barbara, San Diego, Sonoma, and Benicia. Another series of acts pertained to roads and bridges, fences, marks and brands, weights and measures, the publication of the laws, the regulation of official fees, the creation of a state militia, and the division of the state into senatorial and legislative districts.

^{*}The twenty-seven counties were: San Diego, Los Angeles, Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, Santa Clara, San Francisco, Contra Costa, Marin, Sonoma, Solano, Napa, Yolo, Mendocino, Colusa, Butte, Sutter, Yuba, Sacramento, El Dorado, Shasta, Trinity, Calaveras, San Joaquin, Tuolumne, and Mariposa.

One of the sharpest contests of the session was over the question whether the civil law, which Senator Benton had commended in his letter advising the people to organize a government without the aid of that which they already had—or the common law should be the foundation of the system of practice in the state. The civil law had hitherto prevailed in California; the common law was more familiar to the American settlers, most of whom had known no other. The former system was ably championed by Alexander P. Crittenden, the latter by Judge Nathaniel Bennett, one of the first judges of the supreme court, and by E. O. Crosby, chairman of the judiciary committee, who had been a member of the constitutional convention.*

Another equally important and far more pressing matter was that pertaining to the revenue. There was not a cent in the treasury. The state did not own so much as a sheet of paper, a bottle of ink, a pen, or even a pencil with which to record the acts of its legislature; much less did it have money to pay its members their salaries. These had been fixed by the schedule at sixteen dollars per day as well as sixteen dollars for each twenty miles traveled in coming to and returning from the capital. This was the rate at which the members of the constitutional convention had claimed pay, and General Riley had thought the claim not unreasonable. Miners were believed to be averaging an ounce a day. At a meeting of merchants and other business men held more than a year earlier in San Francisco, the value of an ounce

^{*}See chapter on the History of the Laws of California, Vol. V.

of gold had been fixed at \$16, and at that valuation gold dust still passed current. All other prices, including the pay of labor, were fixed in proportion.

There was no longer a civil fund from which the expenses of government could be paid. Congress had extended the revenue laws over the state by the act of March 3, 1849, although it had passed no act for the benefit of its people. They were now required to pay taxes from which they got, and were to get, no benefit until congress could take further action. San Francisco had been made a port of entry; Monterey, San Diego and "Rio Colorado" ports of delivery. James Collier had been appointed collector, and he had arrived and established his office in November. Riley had turned over all that remained of the civil fund to the general government, and the only resource of the state was in taxes or in loans.

To supply the immediate wants of the state officers and members of the legislature, various plans were suggested. A loan, if it could be arranged, would produce what was required most quickly; but while the mines were pouring an average of \$5,000,000 a month into the principal towns and cities, loans could be arranged only at exorbitant rates. Merchants were asked, and usually paid, five per cent a month for accommodations, and the state could not hope to make a loan for much less. An issue of treasury notes in small sums, bearing interest at the lowest rate, was proposed among other expedients, it being supposed that these would be accepted by boarding house keepers and others, and pass into general circulation, increasing rather than diminishing in value as time passed.

Finally an act was passed and approved January 5th, authorizing a loan of \$200,000 to meet immediate wants; and in February the treasurer was authorized to issue bonds to the amount of \$300,000, in sums from \$100 to \$1,000, bearing interest at ten per cent per annum, the bonds to be payable in twenty years, or redeemable at any time after ten years if the state should so desire. It was expected that this loan would be taken in the east, where the rate offered would be likely to prove attractive.

To provide a permanent revenue as well as to pay the temporary and provide for the payment of the larger and longer loan, a tax on both real and personal property at the rate of fifty cents per \$100 of assessed value, was proposed. This was what the older Californians and large land owners in the constitutional convention had feared. They had opposed giving the legislature power to lay such a tax, and now combated it with equal vigor in the legislature. The American members, however, were largely in the majority; they had been accustomed to such taxes, and while perhaps realizing that this tax would bear heavily for a time on a few large land owners in a state where such a large proportion of the land was still owned by the general government, they nevertheless saw no other way to meet the exigencies of the time. Governor Burnett had recommended it as a means of compelling the larger owners to parcel out their holdings, and possibly some others favored it for that reason. The Californians in both house and senate, and members from the southern portion of the state particularly, opposed it vigorously, but they were outvoted and the bill became law. It

was the cause of much ill feeling and resentment for some years afterward, leading at times to efforts to divide the state; and finally to an act of the legislature authorizing a division as will be seen later.

To divide the burden of maintaining the state, and lay some portion of it on the miners, the most numerous class, who so far, through no fault of their own, could acquire no assessible interest in their claims, a poll tax of five dollars per man was levied; and collectors were required to go with the assessors so that none might escape payment. A license tax of twenty dollars per month was also levied on all foreign miners, the collection of which led to much ill feeling, and in some of the mines almost to open war. It appears to have been recognized as unjust and unnecessarily oppressive, and was soon repealed, though later reënacted.

The act was aimed principally at the Mexicans, Peruvians, and Chilians, who had been the earliest gold hunters to arrive after the discovery; and against the Chinese who were beginning to come in considerable numbers. The Mexicans, particularly those from Sonora, had some knowledge of mining before coming to the country, and had been fortunate in finding and getting possession of some of the richest placers on the Stanislaus and Tuolumne before the Americans arrived. Their success, and the readiness with which they squandered their earnings at the gaming tables, provoked both the envy and contempt of their less fortunate competitors who easily came to regard them as intruders in a country which ought to belong exclusively to themselves. This ill feeling had been encour-

aged by some who had little reason to be concerned about the presence of these aliens in the country, and less to promote hostility between them and the American miners. General Smith while at Panama on his way to California had published notice that they would not be allowed to mine in the country and his views, and those of others who held with him, soon came to be generally known after he reached San Francisco, and was the cause of much mischief in various ways.

An effort was made to enact a law excluding free negroes from the state, but it was not successful. The governor strongly favored it, but the bill failed, though it was provided in another act that no negro or Indian should be allowed to testify in court in any cause to which a white man was a party.

The legislature did not fix the location of the capital but left the question open as was the case in many other new states, to be a source of vexation and confusion for a number of years. It made no law providing for public schools, because no funds to support them could be available for a year or more, and no poor law nor insolvency law was passed. In most other respects a code sufficiently complete to meet the demands of the time was created. So rapidly were bills passed during the last days of the session* that Governor Burnett was unable to read them all before approving them; but signed them on the recommendation of various persons whom he invited to assist him.

Late in January two delegates sent by the Mormons at Salt Lake to present the proposition which General Wilson, Indian agent at Salt Lake, California, had

^{*}The legislature adjourned April 22, 1850.

induced them to make, to unite with the people of California in forming one state out of all the territory lately acquired from Mexico, arrived and presented what they had to offer in the form of a memorial. In this they set forth that they had hoped to arrive before the constitutional convention had completed its work; but now that it had adjourned they made the surprising suggestion that a new one be called to consider what they had to propose. The Mormon settlers, they admitted, had held a convention, formed a constitution for a state, and fixed its boundaries before it had been suggested to them to unite with those of California. The boundaries of their state as they had determined them, conflicted in some points with those fixed for California; but as the union they proposed was to exist for only two years, when a separation into two states would take place automatically according to agreement, new boundaries for these states could be agreed upon that would be mutually satisfactory. The principal objects to be gained by this temporary union would be, in their opinion, that the new state would present itself with a larger population, and so make a stronger claim for admission to the Union; and it would settle the vexed question about slavery in the territories which was threatening to destroy that Union. It was true that the Mormons had taken no action in regard to slavery in forming the constitution for their state of Deseret, but the delegates said they were opposed to slavery, and would approve the action taken by the California convention, so the great problem would be solved, a vexing question disposed of, and harmony restored throughout the whole country.

This argument, of course, did not appeal strongly to Burnett, who had been born in Tennessee and emigrated to Oregon from Missouri; and there were many men in both houses of the legislature with views similar to his own. So the memorial was laid on the table where it remained to the end.

A state government had thus been fully organized in California, senators and members of congress elected. and a code of laws, sufficient for present needs, enacted; but the state had not yet been admitted to the Union. Indeed it seemed possible that its application for admission might disrupt the Union. That its people had ventured to organize a government without the authority of congress, was bitterly resented by the south, not because there had not been urgent need for their action, but because its admission would seriously threaten the balance between the free and slave states that had been carefully maintained since the compromise of 1820 when Missouri was admitted. Ever since then a free state and a slave state had been admitted at about the same time, so that the slave and free states had been equally represented in the senate. Now that balance was to be broken, for there was no new slave state seeking admission, and no territory in which one could be erected in the near future.

The south looked with alarm at this serious menace to its sole remaining means of defense for its peculiar institution. Attacks upon that institution were steadily growing, both in frequency and vigor. The compromise line of 36° 30′ had not been extended through the territory acquired from Mexico as a result of war. The opponents of slavery had steadily

and successfully resisted the recognition of property in slaves in any part of it. The Wilmot proviso had been invariably offered as an amendment to every measure affecting it, and had generally defeated all attempts at legislation for or about it. So intense had the contest become that the erection of a territorial government for Oregon in 1848, in a region wholly outside that which had called the proviso into existence, had been opposed with so much energy and feeling that men had listened to the debate with bated breath and whitened lips, and had gone from the chambers of the house and senate to their homes seriously alarmed for the fate of the nation.

The people everywhere had become quite as interested and excited as their representatives. Numerous mass meetings were held in the slave states and resolutions adopted denouncing the proviso, calling upon southern merchants to withdraw their patronage from those in the north who approved it, and attempting to intimidate those who failed to do so. Southern senators and representatives were urged to stand firmly for all they had been claiming; to accept no less than equal rights in the territories, and to resort to extreme measures, even to the dissolution of the union, if their demands were not granted. In the free states meetings were quite as largely attended and quite as emphatic in their declarations that every foot of the newly acquired territory should remain free. Governors in several states discussed the matter in their messages to the legislatures, and legislatures south and north instructed their senators and requested their representatives to oppose or support the proviso, according to the temper of their constituencies. The legislature of Missouri was one of these and Benton had gone home during the summer to tell his people face to face, that he would not obey the instructions, and to denounce the resolutions as "false in their facts, incendiary in their temper, disunion in their object, nullification in their essence, high treason in their remedy, and usurpation in their character."*

While the contest was still mainly about the extension of slavery into the newly acquired territory, there was a small but rapidly growing party in the north which demanded its abolishment in the states where it had long existed. This party denounced slavery as a crime, and characterized those provisions of the constitution which permitted it to exist, as "a league with hell and a covenant with death." A still larger party had begun some years earlier to petition for its abolition in the District of Columbia, which was under the exclusive jurisdiction of congress, or at least to have the slave trade in that district abolished. These petitions were not only refused consideration, but were denounced as insulting to the south, and were so systematically voted down in both houses as to give rise to a new contention. It was charged that the slave power was denying the right of petition, hitherto held to be particularly sacred and guaranteed by the first amendment to the constitution. The summary disposition made of these petitions resulted, as might have been foreseen, in a steady increase in their number, as well as in intensifying the irritation they caused. Increasing opposition to the return of fugitive slaves from the

^{*}McMaster, History of the People of the United States, Vol. VIII, p. 8.

free states was giving rise to a demand from the south for a new and stronger fugitive slave law, and against this the north was protesting with ever increasing vigor.

A new administration had come into power at the adjournment of congress in March. The Whig party had triumphed in the national election, and Zachary Taylor, a whig, had replaced James K. Polk, a democrat. The slavery question had not been the chief issue in the campaign, as it might have been expected to be. There were advocates and opponents of slavery in both parties. The new president was a soldier rather than a statesman, and was so far from being a politician that he had never voted; he was regarded as a whig only because in a published letter he had declared that if he had voted in 1844 he would have voted for Henry Clay; though born in Virginia, elected from Louisiana, and an owner of slaves at the time of his election, he had been supported generally by the opponents of slavery in the north, including Abraham Lincoln.

From the first and only annual message he lived to send to congress, it is apparent that he was deeply concerned for the existence of the Union, and that he hoped to avert the danger that threatened it by some expedient, rather than by boldly meeting it—by persuading people to suspend discussion of the burning issue rather than by finding a final solution of it. He informed congress that the people of California had called a constitutional convention and in all probability would soon apply for admission to the Union.* If

^{*}It was not known in Washington at that time that the constitution had been adopted.

the constitution they formed should be conformable to the requirements of the constitution of the United States, he hoped their application would receive favorable consideration. Those of New Mexico were likely to make similar application in the near future. By patiently awaiting their action he thought "the cause for uneasiness" might "be avoided, and confidence and kind feeling preserved." He quoted Washington's admonition to beware of sectional issues that were likely to divide the country on geographical lines, and expressed the hope that the "exciting topics of a sectional character, which have hereto produced painful apprehensions in the public mind," might be dropped from consideration.

But congress was in no mood to follow the president's suggestions. There had been a prolonged contest in the house over the election of a speaker, in which sixty-three ballots had been taken, and Howell Cobb of Georgia had been chosen at last by the narrow majority of two votes. The other two candidates had been Robert C. Winthrop, of Massachusetts, and David Wilmot, the father of the famous proviso; the last named had been the candidate of the Free Soil party, which in the preceding election had cast a total of nearly 300,000 votes.

Within a few days after the session opened all the exciting topics which had hitherto divided public opinion were demanding consideration in both houses. The constitution adopted by the Mormons at Salt Lake, for a state to be known as Deseret, was presented in the senate; a resolution declaring that it was the duty of congress to remain in session until a suitable

government had been provided for Utah and New Mexico, had been offered; a bill to set off the western part of Texas, and to form a state in it, paying Texas fifteen million dollars for the territory so given up; a bill to organize territorial governments in California, New Mexico, and Deseret; one to enable the people of western Texas to form a constitution for a new state to be called Jacinto, and a bill to better insure the return of fugitive slaves escaping into the free states had been introduced; and it was apparent that each bill would give rise to an exciting debate.

It early began to be charged, or at least suspected, that the president had been exerting some improper influence to induce the people in California, Utah, and New Mexico to organize state or territorial governments. It was said that General Riley had exceeded his authority in calling a constitutional convention in California, and his action was severely criticized while some demanded that he be court-martialed and punished. Resolutions were adopted calling on the president to report what action he had taken with reference to California and New Mexico since the last session of congress, and particularly whether any agents of his had been sent to them with instructions to exercise any influence or authority in calling conventions or directing their deliberations. He was also asked to transmit the instructions to and correspondence with such agents if any had been appointed.

To these resolutions the president replied by a special message on January 21st and with it submitted copies of instructions and correspondence as required. While admitting that he had not hesitated to inform

the people of these territories that he desired them to organize governments in them, and if prepared to comply with the requirements of the constitution of the United States, that they should organize state governments and apply for admission to the Union, he denied that he had advised the organization of any such governments in the hope or expectation that they would be established without the consent of congress, nor had he authorized any government agent, officer, or emissary of any kind to exercise any influence or control over the election of delegates, or over any convention in doing the work it might undertake.

It appears therefore that T. Butler King, his confidential agent in California, and General John Wilson the Indian agent, who had been in negotiation with Brigham Young and others at Salt Lake, in regard to uniting with the people of California to form a constitution for a single state in the territory acquired from Mexico, had acted entirely on their own initiative. And yet General Wilson, who had traveled overland accompanied by a small escort of soldiers, had not hesitated to represent himself as the president's special agent, and to express what he declared to be the president's wish: that one great free state should be erected in the territory so recently acquired, with the understanding that it was to be sub-divided into other free states, to offset the slave states to be carved out of Texas, according to the understanding at the time of its annexation.*

^{*}Brigham H. Roberts, in his *History of the Mormon Church, Chapter LXXVIII*, says: "The general arrived on the 20th of August, 1849. He had been appointed United States Indian agent for California by President Taylor, and was enroute to the field of his labors. The private mission from President Taylor in substance

Debate on the various matters introduced during the earlier part of the session proceeded with increasing interest, until the 29th of January, when Clay presented his famous compromise resolutions which, until they had been resolved into a series of separate measures and finally adopted, became the almost sole object of consideration during the long session.

Clay had been out of public life since his defeat for the presidency in 1844, but had recently been reëlected to the senate, by the unanimous vote of the legislature of his state. He had been speaker of the house of representatives in 1820 when the Missouri compromise was adopted, and subsequently for many years had borne a most conspicuous part in public affairs. Two other famous leaders, who had been almost equally conspicuous in public life during his time, were still in the senate-Daniel Webster of Massachusetts, and John C. Calhoun of South Carolina—and many men of scarcely inferior ability were members of that body. Neither of these had suggested

he stated as follows: Trouble was anticipated in the then approaching congress, which would convene in December. Texas had been annexed and was a slave state. So extensive was her territory that it was capable of being divided into several states all of which, of course, would become slave states. The treaty which closed the war with Mexico had resulted in the United States obtaining an which closed the war with Mexico had resulted in the United States obtaining an immense area of country out of which new states and territories would be carved; and, of course, there was in prospect a terrible struggle between the pro-slavery and anti-slavery parties, the former seeking to establish slavery in, and the latter to exclude it from the states and territories to be made out of this new accession of country. It was thought by the administration, that if a large state, extending from the Pacific Ocean eastward to Salt Lake—including all the territory ceded by Mexico to the United States—was admitted as one state, leaving the question of slavery to be determined by the people of the state, it would remove the question from congress; and if the proposed state was voted free, as most likely it would be, it would offset the then late accession of Texas, and thus calm the rising storm over that question.

Storm over that question.

General Wilson stated, that so eager was the President of the United States in regard to the subject, that if he (Wilson) found any difficulty in the way, his instructions were to appeal to the patriotism of the Mormon people."—Americana,

December, 1912.

a way out of the trouble which now overshadowed the Union, and Clay, who had returned to public life with the avowed purpose of drifting with the tide and no longer attempting to lead, at last found it necessary to act.

His resolutions declared that California, when she should apply, ought to be admitted without regard to what her decision in regard to slavery might be; that slavery did not exist by law, and was not likely to exist in the country acquired from Mexico, and that it was not wise for congress to legislate it into or out of that territory; that a government ought to be set up in that part of the territory not included in California, without any restrictions or conditions as to slavery, that the disputed western boundary of Texas ought to be so defined as to exclude all of New Mexico, whether east or west of the Rio Grande; that Texas should be paid for any territory claimed by it, of which it might so be deprived; that slavery ought not to be abolished in the District of Columbia, while it existed in Maryland, unless Maryland should consent, nor unless the holders of slaves in the district should be paid for them; that the slave trade ought to be abolished in the district; that there should be a more stringent fugitive slave law, and that congress had no power to interfere with the trade in slaves between the states.

Some of these resolutions were hotly opposed, at first, by senators from both the slave and free states. There was a vigorous protest against the dismemberment of Texas. Southern senators were not satisfied because it was only declared that it was not expedient to abolish slavery in the district; because the resolutions

asserted that slavery did not exist by law in the country acquired from Mexico, and because the title of Texas to territory east of the Rio Grande was questioned. Jefferson Davis declared he would accept nothing less than the compromise line drawn to the Pacific Ocean, with an express recognition of the right to hold slaves in the country south of it. Northern senators opposed a more stringent fugitive slave law, and were not satisfied with some of the other provisions.

On March 4th Calhoun presented a carefully prepared speech, which he was not able to deliver in person, and which Senator Mason of Virginia, by unanimous consent, read for him. It was the last speech he was ever to make; before the end of the month he would be in his grave. It was a vigorous and eloquent argument in favor of all that he had so long contended for, and openly declared that the southern states must and would secede from the Union if all their claims were not recognized, particularly their claim of right to take their slaves into unoccupied territory. The admission of California as a free state would be, in his opinion, a serious menace to all the rights of the south. It would deprive it of the equal representation in the senate which the constitution evidentally intended to guarantee, and would break down its last barrier of defense.

Webster replied on the 7th in a speech scarcely less famous than his reply to Hayne. It was an eloquent plea for the Union. He supported the various provisions of the compromise, explaining and defending them at length; declared that little, if any, of either California or New Mexico was suited to slave labor; that it had been ordained by the Creator that they should be free; and he would never vote to reaffirm an ordinance of Nature or reënact the will of God. He admitted that the south had cause of complaint because fugitive slaves were not returned, because of the violence of the northern press, and because legislatures were petitioning for the abolition of slavery in the District of Columbia; but congress could do nothing in all this except enact a stronger fugitive slave law. He was willing that Texas should be paid for any territory she might give up, and that the government should also pay for removing free negroes from southern states to any part of the world. He denounced secession and expressed his confident belief that a convention which had been called to meet at Nashville to state, in an authoritative way, the grievances of which the south had cause to complain, and suggest a remedy, would never declare for it; and in this he was right.

This speech though highly praised in some quarters, cost Webster the confidence of his constituents. Clay had submitted his resolutions to him before offering them in the senate, and all but one of them—probably that for supporting which he was most bitterly censured—had received his approval. He was, no doubt, no more inclined to favor the return of fugitive slaves than many senators of lesser note, who lost nothing in popular favor by voting for that law; but his brilliant powers as an orator, and the commanding influence he had long exercised, made him a shining mark for the shafts of malice of extremists, who felt nothing of the weight of responsibility that rested on him, and who took little note of constitutional provisions in shaping their views on great public questions.

Webster was followed by other senators of lesser note, the debate continuing throughout the summer. Many notable speeches were made, particularly by Seward of New York, who announced for the first time his doctrine of the "higher law," so often referred to and severely criticised in later years.

Early in February, and before Clay presented his resolutions, the senators and representatives elected from the new state of California arrived in Washington, and President Taylor, by special message, transmitted the constitution of the new state to congress. senators and representatives also presented a carefully prepared memorial, apparently written by Gilbert, in which they reviewed the history of the new state particularly from the time the Americans began to arrive in it in considerable numbers—the military occupation, the discovery of gold, the large increase in population which had followed that discovery, and the urgent need of some suitable form of government which that rapid increase had caused. A territorial government, they said, under the revisory powers of congress, would circumscribe the energies of the people, prevent development, and so impede the general advancement as to be a source of discontent, difficulty, and ultimate ruin. A state government, and such a system of measures as a state legislature alone could enact, was imperatively necessary. The neglect of congress had forced California to form such a government. people had in no way been urged to it by General Riley; but on the contrary, had themselves taken the initiative, accepting his suggestions only as a matter of convenience and to save time. The constitution the

convention had formed had met the almost unanimous approval of the people. The slavery question had been but little discussed, although probably two-fifths of the inhabitants of the state were from the south. They recognized, as those from the north did, that no part of California was suited to slave labor. Its exclusion had therefore been unanimously acquiesced in. No project to fix the southern boundary at the line of 36° 30' had been entertained by the convention, and the people residing south of that line probably never would consent to a separation from the northern part. The memorialists believed the population of the state at that time to be more than 107,000, and that more than 76,000 were Americans. They believed also that if the people in the eastern states appreciated their urgent needs, they would hail their action with joy, recognize the government which they had set up, and approve the admission of California to the Union. They did not present themselves as supplicants, nor with arrogance or presumption. They came as free American citizens—citizens by treaty, by adoption, and by birth-and asked for a common share in the common benefits and common ills, and for opportunity to promote the general welfare as one of the United States.

Signers of this memorial had abundant opportunity, during the months which elapsed before the compromise measures were finally adopted, to note what the effect would have been had the convention adopted the boundary which one of them had proposed, and which had been defeated after such a sharp contest. Its defeat had left something to be offered in exchange for

California as a free state. Had all of the territory ceded by Mexico been included, there would have been nothing left in which to organize territories whose people should be left free to choose between freedom and slavery when they came to erect states in them. The south never would have consented to admit a single state, with an area amost as great as that of all the slave states excluding Texas. The absurdity of permitting the mere handful of people then residing in it to determine for all time whether it should be slave or free, would have been too apparent. It is true that it was then generally known that nearly all this vast region was unsuited for cultivation by slaves, still the most of it lay north of the parallel of 36° 30', and in consenting that the people who should thereafter reside in it might decide for themselves, when the time should come, whether it should be slave or free, the north vielded much and the south saw the hated Wilmot proviso forever laid to rest.

After weeks of debate, in which at times it seemed certain that the compromise resolutions must be defeated, they were referred to a committee which brought in bills for the enactment of their several propositions into law. Before action was taken on any of them President Taylor died, and there was doubt for a time whether President Fillmore would approve them all, if they should reach him; but this doubt was gradually dispelled. The bill providing for the admission of California and for territorial governments in Utah and New Mexico was defeated; but subsequently separate bills were presented, and that for admission of California passed the senate on August 13th, although

against the vigorous opposition of most of the southern senators, ten of whom presented a protest and asked to have it entered in the journal, which was refused. The bill passed the house September 7th, and received the president's approval on the 9th. The waiting senators and members of congress from the new state were immediately admitted to their seats, and California took her place in the Union as its thirty-first state.

In California there had been more or less impatience, as was natural, to know what action congress would finally take. As time passed, some people began to speculate as to what might be, or ought to be done in case admission was refused; and there was some idle talk about an independent state, although it was generally discouraged. A majority of the people never lost faith that the necessities of their situation would be understood by congress, and all that they had done would be approved. Their loyalty was of a kind that sustained their confidence in the institutions of their country, and those who, for the time being, had their management in charge.

No doubt the officers and crews of every steamer plying between San Francisco and Central American ports hoped it might fall to their lot to bring the great news northward, when it should come; but it fell to the *Oregon* to be the bearer of it. A liberal supply of bunting had been provided to decorate the ship for the occasion. A large flag bearing the inscription, "California is a state," was made on board ship, and another made in New York had been sent to Captain Patterson by the *Cherokee*. Gaily decorated with the national colors, and with these flags displayed as

prominently as might be, the steamer appeared off the entrance to the Golden Gate on the morning of October 18th, firing her cannon to give notice of her coming. As soon as she was sighted, the good news so plainly heralded by her display of color, was signalled to the city from Telegraph Hill and soon became generally known. It was received with every evidence of rejoicing. The courts adjourned, all business was suspended, and every person who could leave his house or place of business took his way to the water front to give the ship and the message she bore becoming welcome. Not since the California had arrived at the end of her first voyage, more than a year and a half earlier, had the streets, wharves, and hillsides overlooking the bay presented such a scene of animation. As the steamer rounded Clark's Point her bell-now one of the treasured relics of early days at the museum in Golden Gate Park-was rung steadily, and she was greeted with a mighty cheer by the thronging multitude on shore as well as from the decks of all the ships in the harbor; and the cheering continued until after she came to anchor and began to discharge her passengers.

The city was soon decorated with flags and bunting, the colors of all nations being displayed by the ships and from the windows of various buildings. Two large cannon in Portsmouth Square were brought into action, and fired one salute after another. The newspapers issued extra editions, copies of which were eagerly bought at from one dollar to five dollars each. As night came on rockets were sent up, bonfires were lighted in the streets and blazed from the hills until their flames were paled by the dawn of a new day. Nor was

the news long confined to San Francisco. Two stages, belonging to rival lines, bore it down the peninsula to San José. On one of them Governor Burnett sat on the box with the driver, and as the galloping horses whirled them through the towns on the way, governor and driver waved their hats and shouted the glad tidings, "California is admitted," to their inhabitants, who received it with as much joy as had the people of San Francisco. Other mesengers traveling by stage, on horseback, or on foot, soon carried it to other towns and remote mining camps; and although railroads, telegraphs, and telephones were wanting, the news was speedily known in every part of the new state.

On October 29th a much more formal celebration of the event was held in San Francisco. There was a procession in which the various military and civic bodies and most of the inhabitants marched; even the Chinese had a part in it. The city was more elaborately decorated than before, and there was more firing of cannon and small arms. Judge Nathaniel Bennett delivered an oration on the plaza, and an ode written for the occasion by Mrs. Wills was sung by a large choir. In the evening bonfires were lighted on Telegraph Hill, Rincon Point, and on some of the islands in the bay. Many buildings and most private houses were illuminated, and a grand ball was held at which five hundred gentlemen and three hundred ladies danced and made merry until daylight.

CHAPTER IX. THE STRUGGLE FOR ORDER



OVERNMENT was now organized and recognized, but much of the machinery by which government is made effective remained to be created. Until county governments were set up, and courts established, there was no way to put the enactments of the legislature into operation; and to create this machinery and put it in operation in such a wide extent of territory required time. The need to have it done was urgent, and every day growing more and more pressing.

The first county election was held in San Francisco on April 1, 1850; but in the other counties elections were not held until later. At these sheriffs, county auditors, treasurers, coroners, surveyors, recorders, clerks, assessors, and attorneys were chosen, as well as county judges, who had only a limited jurisdiction, and when sitting with two justices of the peace formed courts of sessions, as they were called, but had no power to try criminal cases. These could be heard only by the district judges, some of whom had six counties assigned to their districts; and as most of the counties were large, the judges were required to travel long distances, often over roads that were no better than trails, and generally on horseback. It was therefore late in 1850, and more than two years after the excitement following the gold discovery had begun. before there was anything in a considerable part of the mining region more nearly resembling the administration of justice than was furnished by the alcaldes, who knew little of either Mexican or American law. The mines, the agricultural and stock raising communities, and even the towns and cities were in fact practically without law, except in so far as people made and enforced it for themselves during a period of nearly two years.

The influx of gold hunters was greater in 1850 than it had been in 1849. During that year six hundred and fifty-six vessels of various kinds arrived at San Francisco, bringing thirty-six thousand passengers, while the overland immigration was greater than in the preceding year. In 1851 the immigration was not so great, but in 1852 the influx by sea alone amounted to sixty-seven thousand—twenty thousand of whom were Chinese while the overland arrivals were as great or greater than in any preceding year. The counter current composed of those who had come merely to try their fortunes, varied in proportion. In 1852 Secretary of State Voorhees was at some pains to collect information in regard to population, and secured returns from all the counties except El Dorado, from which he estimated the total at the close of that year to be 264,500. How many had returned meantime there is no means of knowing, or very accurately estimating, but it is probable that had all remained the state would have had a population of more than 350,000 at that time.

Most of those who thus thronged to the new state were earnest, enterprising men, who had lived soberly, but were possessed of the same passions and weaknesses as other men. Each had come with the sole purpose of acquiring a fortune—or at least a competence—with the hope that he might do so quickly, and with a purpose to devote himself to that object assiduously until he should succeed. He expected to endure hardship, to encounter difficulty and possibly dangers; he

knew that for a time he would be unprotected by law; possibly he realized also that he would be unrestrained by the influence of family and the customs of organized society; but all would have been well enough had all been as honestly and peaceably disposed as the majority.

Unfortunately they were not. The earliest reports of the gold discovery drew to the country hordes of criminals from all lands, and these added to those already in it, and those who were criminally inclined, gave it from the beginning an unduly large proportion of the vicious element. Some bad characters had followed the earlier immigrants over the mountains; more came by sea in sailing ships and steamers. Stevenson regiment, recruited as it had been to some extent in the slums of New York, liberated a good many rascals when it was disbanded, who returned to their old time occupations with increased assurance because of having voluntarily rendered their country some honest service. The more worthless part of the native Californians, accustomed as they had been all their lives to help themselves when hungry to a fat steer, or if they wished to ride, to a horse belonging to their well-to-do neighbors, without leave or license, easily learned to prey upon the property of the Americans, whom they hated for coming into their country in such numbers, and particularly for having found the hidden wealth in it which they had never thought of looking for themselves. Many of the Sonorans and other Mexicans who had flocked to the Tuolumne and Stanislaus, soon after Marshall's discovery, had been familiar with the interior of jails in their own country, and brought with them the habits which had distinguished Micheltorena's Cholos, while the Central and South American countries sent swarms of their criminals, male and female, northward by almost every ship. Worst of all came the convicts from the penal colonies in Australia and Van Diemen's land—wretches who had been born to lives of crime, and who had been transported from the slums of English or French cities to save hanging them. Because some of the earliest of these to arrive came from Sydney in New South Wales, they came to be known as "Sydney coves" or "Sydney ducks," and they soon became the terror of every neighborhood in which they appeared.

Where all races of mankind, representing all standards of morality, and with a particularly large representation of those who held to the lowest standard, or no standard, were thus thrown together in a new country where law had not yet been established, and where the opportunities for getting that which most men so eagerly desire, were greater than anywhere else on the globe, it is not surprising that there should have been disorder—it is rather surprising that the disorder was not greater than it really was. It would indeed have been greater—in fact, anarchy would have prevailed—had it not been for the courage, the moderation, the wisdom, and the sobriety of a few of those leaders of men whom every great occasion produces at the right time to direct affairs.

Many of the criminal element went to the mines, as other people did, perhaps with some intention of making an effort to live honestly; but though miners were still supposed to be averaging an ounce a day—

worth \$16—and other laborers were paid in proportion, they did not long persist in their good intentions, and easily relapsed into their old way of living. As a consequence, the security in which the miners had lived and worked during the summer of 1848, was disturbed by occasional thefts, which grew more and more numerous as winter approached. The thieves, when caught, were usually whipped and driven out of camp; for there were no jails, or other means of punishing them. But when driven from one camp, they went to another, and their depredations were not lessened. As robberies grew more frequent, the miners grew more exasperated, and sometimes more severe punishment was inflicted. A man who had been a sailor was caught robbing a saloon at one of the camps on the Calaveras, was sentenced to receive one hundred lashes, have his head shaved, and his ears cut off-and that punishment was inflicted. This was the earliest case reported where "a cruel and unusual punishment" was inflicted.

The first hanging as a punishment for theft occurred at the dry diggings on a branch of Weber creek, which William Daylor had discovered in 1848, and near the present town of Placerville. The camp was one of the richest in the whole mining region and gamblers and saloon keepers were correspondingly numerous in it. One night about the middle of January, 1849, five men attempted to rob a gambler in his room, where he was supposed to have a large amount of money. They were caught, tried by an improvised court, and sentenced to be whipped; but punishment was deferred until the following day, which was

Sunday, when miners came from far and near to see it inflicted. The culprits were given thirty-nine lashes each, well laid on their naked backs, and the affair would probably have ended by driving them from the camp, had not three of them been recognized as old offenders who had been driven from the Stanislaus some time before for stealing and attempted murder. When this became known, a new court was organized by which they were tried a second time and sentenced to be hanged. An attempt was made by E. Gould Buffum, who had been a lieutenant in the Stevenson regiment, and was afterward editor of the "Alta California," to prevent the execution, or at least to delay it until the condemned men, no one of whom could speak English, could have some sort of opportunity to make a defense; but the crowd would not listen and the three were forthwith hanged on the tree to which they had been tied while being flogged. So unusual was it at that time to impose the death penalty as a punishment for stealing, that the place came to be known then and long after, as Hangtown, perhaps as a title of opprobrium, though later, when hangings became more frequent, it may have been regarded as a compliment.

The towns suffered as much or more than the mining camps from the depredations of the criminals. There were as yet neither bolts nor bars, and they would have been useless while business was carried on, as it was, in tents and cloth houses. Everywhere along the streets in the busier parts of San Francisco, Sacramento, and Stockton, most valuable goods were piled in heaps or displayed in mere sheds, the whole

sides of which were open. Bayard Taylor, who arrived in San Francisco about the middle of August, found it a city which seemed "scarcely yet to have taken root." "Great quantities of goods were piled up in the open air for want of a place to store them." One of the most pretentious buildings in the city at that time was the Parker house, on the lower side of Portsmouth Square. It was a frame structure about sixty feet long and two stories high, with an attic lighted by windows in the roof. Adjoining it on the south was Dennison's exchange, a saloon and gambling house in another two story wooden building. The City hotel, a one story adobe with a low attic was at the corner of Clay and Kearny, and the few wooden buildings about the square were of one story The collector of customs had his office in the adobe building which had been built for a custom house in Mexican times, and the post office was at the corner of Pike and Clay streets.

At that time the town had a population of about 5,000 as Taylor thought. Its principal limits were California, Powell, Vallejo streets, and the water front, which was still as it had been in the beginning except for two wharves, one about seventy feet long at Broadway, and another about thirty feet long at Clay street.

After a visit to the mines which occupied about three weeks, Taylor returned to the city to find that it seemed to have doubled the number of its buildings. "New warehouses had sprung up at the water side, new piers were creeping out toward the shipping, and the noise, motion, and bustle of business and labor on all sides was incessant." "The very air is pregnant,"

he says, "with the magnetism of bold, spirited, unwearied action, and he who but ventures into the outer circle of the whirlpool, is spinning, ere he has time for thought, in its dizzy vortex." Merchants were demanding unheard-of prices for their goods, and if buyers objected, they turned away indifferently to other customers, who paid what was asked without question. Men seemed to be possessed with a never resting spirit. One met an acquaintance on the street. who greeted him with a few hurried words while apparently thinking of something else and then hurried away. "In the next five minutes he had bought up half a cargo, sold a town lot for treble he gave, and taken a share in some new and imposing speculation." Nor did this restless activity end with the day. The streets were filled with their eager crowds and the stores, saloons, and gambling houses were open until far into the night. When seen from the bay the city presented a picture such as could be seen nowhere else on earth. The canvas houses were made transparent by the lamps within, which transformed them in the darkness, to dwellings of solid light. "Seated on the slopes of its three hills, the huts pitched among the chapparal to the very summits, it gleams like an amphitheatre of fire. Here and there shine out brilliant points, from the decoy lamps of the gambling houses; and through the indistinct murmur of the streets comes by fits the sound of music from their hot and crowded precincts. The picture has in it something of the unreal and fantastic: it impresses one like the cities of the magic lanterns which a motion of the hand can build or annihilate."*

^{*}El Dorado, p. 117.

After a visit to the constitutional convention at Monterey, Taylor came back to the city in October, to find that a still more marvellous change had taken place. Along Montgomery street all the vacant spaces had been built up, "the canvas homes replaced by ample three story buildings, an exchange with lofty sky-lights fronted the water, and for the space of half a mile the throng of men of all classes, characters and nations, with carts and horses, equalled Wall street before three o'clock." The town had pressed up toward the tops of the hills in all directions, and south of a lofty sand dune, which then stood near the corner of Market and Second streets of the present day, was a favorite residence section, known as Happy Valley, where hundred vara lots were selling at \$3,500 each. Five saw mills at Santa Cruz, and several new mills recently established on Puget Sound, were kept busy furnishing lumber which sold at from \$300 to \$400 per thousand feet. The wharves were gradually lengthening toward deeper water. "Portsmouth Square was filled with lumber and house frames, and nearly every street in the lower part of the city was blocked up with goods." The population of the place was then supposed to be 15,000. There was gambling everywhere. The bar rooms of every hotel and public house presented their tables to attract the idle, the eager, and the covetous, while some of the principal buildings were wholly occupied as gambling and drinking establishments. For a time, the El Dorado, one of the largest gambling places, occupied a tent adjoining the Parker house on the north. Monte, faro, roulette, rondo, rouge et noir, and vingt-un were the principal games played. In some of the

saloons and gambling rooms, well-dressed women dealt the cards, or turned the roulette wheels, while gaudy pictures decorated the walls, and bands or orchestras provided music. Many of these gambling rooms opened directly upon the street, and were frequented by all classes of people, as freely as hotel lobbies now are. The tables were surrounded by eager crowds, sometimes three and four deep, those in the rear lines reaching over the shoulders of those in front to place their bets. The sums staked were often large, three, four, and five thousand dollars being quite ordinary bets, and sometimes as much as fifteen and twenty thousand dollars were risked on the single turn of a card. Real estate had come to be a favorite speculation. Prices of lots were advancing rapidly. Property owned by the late vice-consul Leidesdorff, which had been of so little value at the time of his death in May of the previous year, that his estate was believed to be insolvent, was now valued at more than \$1,000,000 above his liabilities which were \$40,000. Some of Taylor's traveling companions on the voyage out, had already made \$20,000 and \$30,000 each by their speculations.

On leaving the city in December, a little more than four months after his arrival, Taylor felt that he was bidding good-by to an "actual metropolis, displaying street after street of well-built edifices, filled with an active and enterprising people, and exhibiting every mark of permanent commercial prosperity." The city stretched to the very tops of the surrounding hills. Where he had been able on his arrival to get nothing better than one of two cots in an attic of the City hotel, with scarcely room to sit upright in bed without bump-

HENRY L. DODGE

Born at Montpelier, Vermont, January 31, 1825; came to California in 1849; was secretary of the Ayuntamiento of San Francisco in that year; established the wholesale house of Dodge, Sweeney & Co.; was supervisor; member of the legislature; superintendent of the mint; president of the chamber of commerce and of the society of California Pioneers.





Ho, L. Docege



ing the naked rafters, the city now had an abundance of "lofty hotels, gaudy with verandas and balconies, and with rooms furnished with home luxury." The merchants had an exchange and news room, and were beginning to cooperate in their movements and consolidate their credit. The Ward house, the Graham house—imported bodily from Baltimore—and the St. Francis hotel were up-to-date establishments, their rooms furnished with comfort and even luxury, while their tables lacked few of the essentials of good living according to home taste. The cost of board and lodging at the St. Francis was \$150 per month, while at the Ward house \$250 was asked for a room alone; and payment was exacted in advance. The principal restaurants charged \$35 a week for board, and there were lodging houses where one of fifty bunks in a single room might be had for \$6 a week.

At that time the city was peopled almost entirely with men. The women were few, and most of them not of respectable character. Their whole number probably did not exceed two hundred at the end of June, or five hundred on December 31, 1849.*

There were parts of this "actual metropolis" that Taylor did not describe, and they had a most malign influence on its character. One of them lay around Clark's point between Broadway and Pacific streets. It was known as Sydney Town, and was inhabited chiefly by the Sydney coves and people of their kind, ex-convicts, ticket-of-leave men and women, mostly from the English penal colonies, who lived there in tents and huts, low saloons and dance halls in indis-

^{*}Annals of San Francisco, p. 243.

criminate squalor. It was a place to be avoided by honest people even during the day; to wander into it by night was to invite destruction. Even the police scarcely ventured to go there after policemen began to be employed, and if sent, went only in force and well armed. South and west of Sydney Town, west of Kearny street and north of Washington, was Little Chile, a scarcely less wholesome neighborhood where the outcasts male and female, from the South American countries lived; and still farther south was Chinatown.

In such a welter of humanity it is more surprising that anything resembling order should prevail as long as it did, than that the occupations of honest men should be disturbed as they came to be; for until August, 1849, there was no semblance of a government in the city, except that of Alcalde Leavenworth, and Alcalde Leavenworth was far from possessing the confidence of sober minded men. At best his authority was not great, and the little he had he used sparingly. An ineffectual attempt had been made to oust him from his office early in the year; two ayuntamientos had been elected, and these had been superseded by the illegal legislative assembly which Governor Riley had suppressed, when the town began to be terrorized by a party of rascals calling themselves the Hounds. These were mostly young men, some of whom had served in the Stevenson regiment, and who later gave their organization something of a military character. They claimed to be an association for mutual protection, and made their headquarters in a large tent near the City hotel which they called Tammany Hall. protection they gave was mainly in the way of defending each other from arrest for the crimes which they committed more and more openly as time passed. At first they invaded the tents of the more defenseless people, principally foreigners, demanding money, and if refused, helped themselves to anything of value they found. If resisted they sometimes beat the inmates, and destroyed what they could not carry away of their property. Gradually they became bolder, and invaded stores, saloons, and restaurants, helped themselves to what they wanted, and as they left scoffingly told the proprietors to "charge it to the Hounds." They paraded the streets, principally on Sundays, dressed in military or fantastic costumes and accompanied with fife and drum, defiantly boasting that they were the regulators of the town.

In no community except one in which every honest man was earnestly devoting every working hour to his own affairs, would such proceedings have been tolerated for a day, much less for several months as they were in the San Francisco of that day. But finally the marauders brought confusion upon themselves. On Sunday, July 15, after the usual parade, they marched to Little Chile, where they attacked and tore down tents, clubbed and otherwise beat a number of its inhabitants, male and female, shot at some who fled from their attack, and plundered the destroyed tents and cabins of whatever valuables they found in them.

This riotous proceeding roused the community. On Monday Alcalde Leavenworth was urged to take measures to organize the citizens for self defense, and in response, issued a proclamation calling a general meeting for that afternoon in Portsmouth Square.

Business men generally responded. A subscription for the relief of the plundered Chilenos was taken, and then two hundred and thirty of those present enrolled themselves as special constables to preserve order. Captain W. E. Spofford was appointed to command this force, which was speedily armed with muskets willingly provided by such merchants as had them in stock, and nearly twenty of the rioters were arrested that same afternoon, among them being Sam Roberts their leader, who had taken the alarm and was caught on his way to Stockton. As there was no prison, or other building in the city in which they could be safely held, all were sent on board the warship *Warren*, then lying in the harbor, where they were kept until wanted.

Another public meeting was immediately held, at which it was resolved to give the prisoners a formal trial, and James C. Ward and W. M. Gwin—who had then only recently arrived in California—were appointed to sit with the alcalde as judges, while Horace Hawes was named as attorney for the prosecution, with Hall McAllister as his assistant. Myron Norton and P. Barry were appointed to appear for the

accused.

The trial was held on Wednesday. A jury was empaneled, witnesses for both the people and the defendants examined, and all the usual forms of criminal trial observed. Everything was done dispassionately and in order. The jury found eight of the defendants guilty and fixed the punishment of Roberts and one of the other principal leaders, at ten years' imprisonment in any penitentiary that Governor Riley might name; the others were given shorter terms, but

HALL McALLISTER

Born at Savannah, Georgia, February 9, 1826; died at San Francisco, December 1, 1888; graduate of Yale College; came to California on the Pacific Mail Steamer Panama, June 4, 1849. Governor Riley appointed McAllister second lieutenant of the California Guards, September 8, 1849, and on the 25th of the same month appointed him attorney for the district of San Francisco at a salary of two thousand dollars per annum. Hall McAllister was considered one of the ablest lawyers in California. McAllister street in San Francisco was named in his honor and his statue in bronze stands in front of the ruined City Hall (1915) on McAllister street.

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required to pay fines. As there was no penitentiary to which any of them could be sent without sending to the eastern states, all were sent out of the country with an injunction never to return.

While this exciting incident was occupying the public mind, preparations were making for an election which would give the city something resembling a government. On August 1st delegates to the constitutional convention were to be chosen, and at the same time a new prefect and sub-prefects, two new alcaldes and a new ayuntamiento of twelve members would be elected. This would give the city a new government under Mexican laws and with a Spanish name; but the Mexican laws had now been translated and printed by General Riley's order, and under them it was found possible to make a government far better suited to the needs of an American community than was earlier thought possible. John W. Geary who was chosen first alcalde, delivered a carefully prepared address at the first meeting of the new ayuntamiento, in which he pointed out that the city had no treasury and was probably in debt; it had neither public officer nor jail, nor school, nor public building of any kind, and no place to care for the indigent sick while living, or bury them when dead. He advised that an estimate of the funds needed to establish and carry on a government be made with all convenient dispatch, and that taxes be levied upon real estate and upon sales at auction, and that all merchants, traders, storekeepers, and gamblers, as well as owners of drays, lighters, and boats used for transporting either persons or freight, be required to take out licenses. Agreeable to this recommendation.

the ayuntamiento on August 27th, passed the city's first revenue law. The first money appropriated was for the purchase of the stranded hulk of the brig *Euphemia*, then lying near what is now the corner of Battery and Jackson streets, to be used as a city prison. A chief of police, a sheriff and other city officers were also chosen.

The city was still without a fire department, and was built of more inflammable materials than any other city in the world. It had no regular water supply; its twenty or twenty-five thousand inhabitants obtained water as they could, from wells, or from three small rivulets, one of which flowed down from the hill about where Sacramento street now is, one about Seventh street, coming in from Hayes valley, and one running into Washerwoman's lagoon, near Black point. Not a street had been graded. Tents and canvas houses had been built on the tops and sides, or between the sand dunes that then covered most of the solid ground on which the city now stands, and the only leveling that had been done had been by the tramping of many feet. When the rainy season began-early as it did in 1849, and with an unusual flood—the principal streets became well nigh impassable.* Montgomery street particularly was a quagmire. Merchants found it next to impossible to move goods through it and others near it. Some animals are known to have been, and some human beings are believed to have been smothered in them. The city authorities caused some of the chaparral to be cut on the hillsides and thrown

^{*}Lieutenant George H. Derby, as John Pheonix, made the streets the subject of his earliest and cleverest satires.

into them, with other rubbish, but this made them even more dangerous. General Sherman says that a horse ridden over these submerged brush heaps was likely to get its feet entangled in them and perhaps be permanently injured. In some places a few planks were put down for sidewalks, by which merchants and their customers might reach their places of business; in others boxes of plug tobacco, barrels of spoiled pork or beef, bags of beans and coffee and other articles with which the stores had become overstocked, were piled in little piers, like stepping stones, along the sides of the streets and at the crossings.* Over and along these, springing lightly from one landing to another, pedestrians made their way from one point to another, carrying lanterns at night to enable them to distinguish the perilous footways, and not always escaping an involuntary plunge in the liquid mud and filth which surrounded them.†

Such was the plight of San Francisco when the first of the six great fires, by which its busiest and wealthiest part was successively swept within the short space of eighteen months, broke out in one of its largest gambling houses on the morning of December 24, 1849. But little could be done to stay its progress other than by blowing up or tearing down buildings in advance of

^{*}Annals of San Francisco, p. 245.

[†]M. J. Guinn says: "This famous sidewalk was on the west side of Montgomery street, between Clay and Jackson.* * * It began with 100-pound sacks of Chilean flour. Then followed a long row of cooking stoves, over which it was necessary to carefully pick your way as some of the covers were gone. A damaged piano bridged a chasm and beyond this a double row of tobacco boxes completed the walk." Annual Publication of the Historical Society of Southern California, 1903. The stoves had been sent out from New York to be sold to the miners, but the senders did not know, as Guinn says, that "a miner's outfit consisted of a frying pan and coffee pot."

it. About fifty buildings which with their contents were valued at \$1,000,000 were destroyed. Among them was the Parker house which alone rented for \$115,000 per annum, more than half of which was paid by gamblers.

Volunteers now began to organize fire companies, the first under the lead of David C. Broderick who had been foreman of a company in New York, and who had arrived in San Francisco in the early summer. It was not possible, however, to get engines in time to be of service when the next fire broke out on May 4, 1850. It began in a saloon and gambling resort which had taken the place of Dennison's, where the former fire had started, and as a high wind was blowing at the time it spread rapidly. Three hundred buildings were consumed on Montgomery, Kearny, and Dupont streets, between Jackson and Clay, many of them having been built on the ground which had been swept by the fire in December. The loss was estimated at \$3,000,000 to \$4,000,000. Many merchants were entirely ruined; but without losing heart most of them began to rebuild. A number of houses already framed and ready to put together had been brought from the east, and some also from China during the previous year, and more were on the way. These as they arrived were quickly set up, and as before, the region burned over was again rebuilt.

A new city government had by this time been installed under the charter granted by the legislature. On May 1st a council had been chosen, and Alcalde Geary had been elected mayor The legislature had also created a superior court for San Francisco county,

with three judges whose authority, within the county, was similar to that of the district judges, except that arguments on points of law and reserved questions must be heard by two of them sitting together.

The new council bestirred itself to provide the city with better protection against fire. Prefect Hawes had directed one of the justices of the peace named Colton, to sell a number of lots and other real property within the original grant to the pueblo of four square leagues to which the city had now succeeded, and although his right to do this had been disputed, a good many sales had been made, though at low prices as many thought, and the partial payments made turned over to the city.* The money, and credits so received put the city in what seemed to be excellent financial condition, with a balance of more than \$30,000 over all liabilities including that for the purchase of a new city hall, which had been arranged for. As no expenditure seemed to be more urgently demanded than for fire fighting purposes, several artesian wells were ordered sunk, and cisterns to be filled with water pumped from the bay to be constructed at the principal street crossings in the business district. An ordinance was also passed directing every house holder to keep six water buckets always in readiness for use in case of fire and another was enacted that any person who should refuse, in case of fire, to assist in extinguishing the flames or removing goods to a place of safety, should be fined an amount not exceeding \$500.

^{*}These Colton grants, as they were called, were afterwards contested and became the cause of long and vexatious litigations, though they were finally confirmed.

Before any of the more costly means of defense could be made effective, a third fire, on the morning of June 15th, swept over the blocks bounded by California, Clay, Kearny streets and the water, doing almost as much damage as had been done by that of May 4th.

It was now beginning to be suspected that incendiaries were at work—that these fires, or some of them had been kindled by thieves in order to make opportunity to plunder. While the fire of May 4th was burning several persons had refused to help in saving property unless well paid to do so; and plundering had been prevented by the police with difficulty. The mayor had offered a reward of \$5,000 for the arrest of any person caught setting a building on fire. The inhabitants of Sydney Town and Little Chile, few of whom had any honest employment, were regarded with increasing distrust.

But uneasy as property owners were in contemplation of this danger, they were scarcely more excited by it than by a more open attack on their property through the taxing power of their new government. The new council, shortly after taking office, had voted the mayor, recorder, and some other officers salaries of \$10,000 a year each, and \$6,000 each to its own members, sixteen in number—a total of \$170,000 per year for salaries alone. The city was without funds at the time, for although it had an apparent balance to its credit by the mayor's showing, the money had not all been collected, and part of it would not be due for nearly two years. Interest on the scrip already issued was accumulating rapidly, and default seemed likely.

No city of twenty-five or thirty thousand people, whose richest part had been three times destroyed by fire within half a dozen months, could stand such lavish management of its affairs. The property owners met in a largely attended indignation meeting at Portsmouth Square, and sent a committee of twentyfive to present their protest to the council. They were but coldly received and the resolutions they presented were ordered to lie on the table. Another mass meeting was held a week later, at which this official insolence was vigorously resented. The resolutions of the former meeting were reaffirmed, and the committee, increased to five hundred, was instructed to present them once more. This enlarged committee fixed upon the evening of June 14th for the performance of this duty, but at that time the third great fire was raging, and its visit was not made. Before the matter could be again taken up, the councilmen, on the recommendation of Mayor Geary, reduced their own salaries to \$4,000 and all others in proportion.

It was in the midst of such difficulties and perplexities that the people of the city were called upon to aid the distressed immigrants of 1850, and in one day contributed \$6,000 in cash, and an immense amount of provisions, which were promptly sent off for their relief.

On the morning of September 17th a fourth fire swept over the blocks bounded by Washington, Pacific, Dupont, and Montgomery streets, a region in which the buildings were mostly of wood and only one story high. Six weeks later the city hospital, owned by Dr. Peter Smith was burned. Some of the patients

were removed from it with the greatest difficulty, a few being severely burned, though none lost their lives. Still another fire, on the evening of December 14th, destroyed several large stores on Sacramento street below Montgomery, causing a property loss greater than that of September, although the area swept over by it was much smaller.

In spite of all the losses by these numerous fires, and the cost of rebuilding and replacing the merchandise destroyed, the city continued to advance. In no part of it was improvement so noticeable as on the water front, where there were now a dozen wharves in place of only two as at the beginning of the year. The longest of these, known as the Long wharf, was at Commercial street. It was now 2,000 feet long and the largest ships could come along side to receive and discharge cargo at any stage of the tide. Broadway wharf was 250 feet long, that at Market street 600 feet, Howison's 1,100, Sacramento street 800, Clay street 900, Jackson street 500, Pacific street 500, and there were several others. All these had been built by private enterprise, and a planked road from the city to the Mission Dolores was also under construction. It would be more than two miles in length when finished.

These improvements had already cost more than \$1,000,000, but the investments were proving profitable. Captain Joseph L. Folsom had also demonstrated that the submerged land between the wharves could be filled in with profit, by filling his lot on the north side of California street west of Sansome. Work of this kind, while very expensive in the beginning, was

greatly facilitated when the city began, as it did during the summer of 1850, to grade the principal streets and plank them. One-third the cost of this work was borne by the city and the remainder by the owners whose property was benefited. During the year most of the sand hills were cut away and the low places between them filled up in all streets between Bush and Pacific, many of them as far west as Dupont. Most of them had also been planked, and in some sewers had been built. Piles had also been driven, and a planked roadway made, along Sansome from Bush to Broadway, and on Battery from Market to California. In doing this work several stranded ships in addition to the Euphemia the city's prison ship, had been brought to their last anchorage. Among them was the Apollo, at the corner of Battery and Sacramento, which had already been converted into a saloon, the General Harrison at Battery and Clay, the Georgeon near Battery and Jackson, and the Niantic at Clay and Sansome, which had become a lodging house.

During the year of 1850 six hundred and fifty-six sea going vessels had arrived bringing more than 36,000 people, among whom was as large a proportion of the undesirable class as had formerly come. Twenty-one steamers belonging to two lines were making regular trips to and from Panama and Nicaragua. The sailing ships had less trouble with deserting crews than formerly and those from South American and Australian ports brought ex-convicts and other troublesome characters in increasing numbers. These usually remained in the city, or if they went to the mines soon returned. From the mines also came many whose

health had been broken by the hardship and exposure to which they were not accustomed, and who now made their way to the city, penniless and helpless, to be cared for by its charity. With them came also some who had not lost health, but made desperate by want of success or by losses at the gaming tables, were turning to crime as the readiest means of procuring a livelihood.

It was these habitual criminals, as well as these disheartened prospectors whose moral convictions were probably never very strong, who were committing the depredations of which Governor Burnett complained to the second legislature in January, 1851. They were not only stealing cattle and horses, as he reported, but were waylaying miners who had started for their homes with well filled purses, robbing the wagons of traders on the way to or from the centers of supply, and stealing the hoards of the incautious in the mining camps. They were not wanting in the towns of the interior, or even in the smaller villages. Honest men could no longer go unarmed even about their ordinary employments. All who had money or gold dust felt that they might at any moment be called upon to dispute possession of it with some desperado, and many such were murdered and robbed.

Even when the counties were organized and courts established, things did not improve. It was not possible for judges and court officers to arrest, try, and punish within a few weeks, all the lawless characters who deserved their attention, even if they had been both enterprising and regardful of their duties, which in most cases they were not. Many of the

judges, sheriffs, and other peace officers were notably unfit for the places they had secured. Some were so notoriously considerate of criminals as to lead the editor of the "Evening Picayune" to say in August, 1850: "There is scarce a legislator chosen to form the laws under which our interests, and the interest of those who are to come after us, are to be regulated, scarce a judicial officer from the bench of the supreme court down to the clerk of a village justice of the peace, scarce a functionary belonging to the administration of our cities and incorporated towns, who has not entered upon his duties and responsibilities, as a means of making money enough to carry him home. His devotion to the well being and advancement of the community whose confidence he has sought and won, is measured by the dollars and cents to be acquired in his place, rather than by any prospective regard to the influence which his official career may have upon the destinies of the community in which he has no intention to become permanently concerned." Juries were taken from the loungers found in the saloons or from hangerson about the court rooms, some of whom at least, were the familiars of criminals, if not actual criminals themselves. Pettifogging lawyers, learned only in the tricks by which justice may be defeated, delayed trials, suborned witnesses, and procured the enlargement of their clients by the most disreputable devices, until those who had hoped that security for their persons and property might follow close upon the establishment of the means by which justice is administered, were unwillingly brought to realize that they must defend themselves or go undefended.

It is not strange that people should have been thus deceived by the first set of officers chosen by them or for them. The miners and prospectors of 1850 generally knew very little of each other. They had few acquaintances beyond their own camps. Where there were men among them who were competent to be judges or good administrative officers, they generally preferred to pursue their mining operations for a longer time—at least they did not incline personally to solicit office. There was no party organization to seek out or vouch for candidates. A condition that some theorists would consider ideal existed. Every voter was left absolutely uninfluenced to make his own choice; but he was compelled to choose blindly, as in most cases he now is. He made choice among a lot of place hunters, because no others were offering, and if he chose incompetents or worse in many cases, it was because it was not possible to do better.

Instead of lessening the need for communities to take means of their own to rid themselves of criminals, the courts as first established increased it; and as a consequence, summary trials became more and more numerous, convictions more frequent, and punishments more severe. The irregular trials, which were at first conducted more or less calmly, and even with dignity, became turbulent, and sometimes the fate of prisoners was determined by a drunken rabble. A Mexican was hanged in one of the mining camps for stealing some pack animals that were afterward found not to have been stolen at all. A boy was mercilessly whipped for stealing money from a hotel in Coloma and was afterward found to be innocent. A party of four Mexicans

who had been caught burning a tent near Sonora in which there were two dead bodies, narrowly escaped hanging by a drunken rabble, which for two days surrounded the court house in which their trial was going on; yet it was in the end conclusively proven that they had committed no murder and were disposing of the bodies according to the custom of the region in which they had formerly lived.

Such scenes of disorder were exceptional and occurred only where much had happened to excite public indignation or alarm. Twenty murders were reported to have been committed within twenty-five days in the camps near where these Mexicans had been arrested. Some of the victims had been collectors of the foreign miners' tax, and some had been foreign miners who had refused to pay. Murderers were sometimes seized by those who saw the crime committed, and in such cases were given short shrift. A Botany Bay convict shot a man at a gambling table in Sacramento and was almost immediately hanged from a nearby oak tree. A gambler known as Irish Dick was hurried to a similar fate for a similar crime. An Englishman named Sharpe shot a man near Auburn on Christmas day, 1850, and immediately surrendered to the sheriff; but he was seized by a mob and hanged.

Several incendiary fires were started in Sacramento in 1850, but all were discovered in time to prevent great danger. Reports of them and of other disorders prevailing in the interior reached San Francisco and increased the disquiet prevailing there. There were at the time five daily papers in San Francisco and weekly papers were published at Sacramento, Stockton, and

Nevada City. People were, therefore, kept reasonably well, if not properly, informed about matters calculated to disturb public security. From the time of the first great fire in San Francisco there had been suspicion that incendiaries were plotting to destroy the town, and the suspicion had steadily grown as the other fires had occurred. A number of fires, mysteriously started, had been discovered and extinguished in time to prevent great damage. As the anniversary of the great fire of May 4th drew near a report gained currency that an attempt to burn the city would be made on that day, and it was more and more discussed as the day grew nearer. All the burned districts had by this time been rebuilt and with far better buildings than formerly. Some of them were of brick or granite, three or four stories in height, and remained standing until the great fire of 1906. Tents and shanties had almost entirely disappeared from the business district. The planked streets gave the volunteer fire companies—of which there were now six, with three hook-and-ladder companies—opportunity to act quickly. Several of the cisterns which the council had ordered were also finished, and property owners not only felt that their city was much better worth defending against fire than formerly, but that they had ampler means for defending it.

In spite of the great destruction of goods by the numerous fires of 1850, the market was greatly overstocked during the latter part of that year and the early part of 1851. In addition to the orders which the merchants themselves had placed, eastern merchants and manufacturers had shipped out large stocks for which there was scant storage room, and which

could not long afford to pay storage charges. They were accordingly thrown on the market at auction, and sold for what they would fetch. This cut into the profits of merchants, many of whom had been severely crippled by fire losses, and failures were numerous. Real estate values also declined. The banking house of Naglee & Company, suspended early in September and there were runs on the other banks, though all paid as money was called for.

To relieve the depression that was beginning to take possession of many minds, news came early in January, 1851, of a wonderful gold discovery on the northern coast. Nineteen prospectors, it was said, had found the ocean shore, for some miles south of the Klamath river, composed of black or gray sand, and so thickly mixed with fine particles of the precious metal as to be worth from ten cents to ten dollars a pound. This gold appeared to have been beaten out of the shore which there rises precipitously to a height of from 100 to 500 feet-by fierce storms in ages past, and ground to powder by the attrition of the sand. It strewed the beach for miles, and there was so much of it that it seemed futile for any of the discoverers to fetch away as much as he could carry, leaving tons to be claimed by later comers. Calculations made by those who claimed to know something of the richness of the deposits, showed that they would yield as much as \$43,000,000 for each of the nineteen discoverers, even if they should prove to be only one-tenth as rich as they seemed. So a company was formed to send a ship for an early cargo of this sand. Shares of \$100 each in this company were readily taken and were soon

selling at a premium; for the spirit of speculation was as active as when Bayard Taylor had found men buying and selling town lots or cargoes of goods while on the way to or returning from their luncheons. A ship was purchased for \$20,000 and sent north at the cost of as much more, while eight other ships were made ready by their agents for Gold Bluffs. But before all had sailed news came that the gold particles were so fine that they could not be separated from the sand by any known process, and finally that there was not nearly so much of the precious sand as had been represented. A few of the discoverers had made a good profit, but later comers found nothing to encourage their efforts.*

Possibly the city would have been relieved to some extent of the criminals who infested it if the Gold Bluffs excitement had not so soon subsided, for such people were usually the first to seek the new camps where gold promised to be most plentiful. As it was their numbers seemed to increase rather than diminish as spring approached, and street robberies, burglaries, and murders, became more numerous. Incendiaries were also busy but the fires they started were usually put out without much loss. Thieves and supposed incendiaries were occasionally arrested but were rarely punished; frequently they were released on bail and not again molested. The city was already heavily in debt, but the council continued to make lavish expenditures and increase the public burdens. Things were so bad that they must soon change for the better or anarchy would ensue.

^{*}See article on Mining, Vol. V, Chapter VIII.

During the evening of February 10th, C. J. Jansen, a merchant was struck down in his store by a ruffian who came in while he was showing another man, evidently an accomplice, some blankets. After beating him into insensibility the two made off with the cash box containing nearly \$1,700. Two days later two men who gave their names as Windred and Burdue were arrested and Iansen identified Burdue positively as the man who struck him. He was almost equally certain that Windred was the other man. Other people thought they recognized in Burdue a notorious Sydney cove named James Stuart, who a short time before had murdered Sheriff Moore at Auburn and robbed him of \$4,000. He had subsequently been arrested for this crime but had escaped from the prison ship at Sacramento while awaiting trial. The man now in custody charged with the attack on Jansen strongly resembled Stuart in many ways, except that Stuart was said to be five feet nine inches tall, while this man was only five feet seven. He admitted that he had come from Sydney where he claimed to have a wife and children, and also admitted that he had been arrested three times since arriving in California, and that he had twice narrowly escaped hanging; but he stoutly denied that he was Stuart, that he had attacked Jansen, or that he had been guilty of any crime.

A crowd of excited citizens supposed to number five thousand, assembled about the city hall on Saturday the 22d, when the prisoners were arraigned. Among this crowd handbills were distributed inviting "all those who would rid our city of its robbers and murderers" to assemble in the plaza on the following

day at two o'clock. Once a call was made by some of the more excited individuals to make a charge on the court room and seize the prisoners for summary punishment; but the call was little heeded. The court officers, however, became alarmed and took their prisoners by a back way to their cells. The crowd later dispersed but assembled early in the evening, when after some speeches had been made a committee of fourteen members with W. D. M. Howard at its head, and Samuel Brannan, A. J. Ellis, Captain J. L. Folsom, and Talbot H. Green, among its members, was appointed to confer with the authorities and see to it that the prisoners did not escape.

The newspapers added fuel to the flame which was now kindling. The "Alta" said, "The people have taken into their own hands the adjudication of law and justice, because they know no confidence could be placed in our tribunals. * * * Our courts, instead of being a terror to evil doers, have proved themselves the protectors of villains, and thus encouragers of crime. This is a hard accusation, but it is true. There can be no doubt that in California five hundred murders have been committed * * * and yet not one single offense has been punished by these courts. * * * Courts have thus gendered crime by nourishing the criminal." The "Herald" advised the organization of "a band of two or three hundred regulators, composed of such men as have a stake in the town, and who are interested in the welfare of the community. The very existence of such a band would terrify evil doers and drive criminals from the city."

WILLIAM T. COLEMAN IN 1856

President of the Vigilance Committee of 1856. Also served as commander of the Pick-handle Brigade during the Sandlot agitation. He came to California in 1849, and was head of a large mercantile house which failed in 1886.

He died November 22, 1893.







A much larger crowd assembled in the plaza on Sunday, than had surrounded the city hall the day before, and after listening to speeches by Mayor Geary, who proposed the appointment of a committee of twelve to sit with the judge in the trial of the accused, and by W. T. Coleman, a young merchant, it was decided to proceed with the trial themselves—that the court might assist if it chose, but if it did not, counsel should be named for the people and for the prisoners and a trial be held forwith.

At two o'clock the trial began in the recorder's room, no court officials being present; J. R. Spence with two associates was chosen to preside, a sheriff and clerk were named and a jury empaneled. Coleman was chosen to prosecute while Judge Shattuck and Hall McAllister defended. Witnesses were examined and the trial conducted with due form and dignity in every way, but the jury found no verdict. It was reported that nine of the twelve favored conviction but the other three thought guilt had not been clearly proven.

It was midnight before this result was announced, and the crowd which was still too large to gain admission to the building, received it with much disfavor. There were cries of "hang them anyway," but there was no attempt to carry this menace into execution. The mayor had meantime assembled a party of two or three hundred people who were determined to resist any violence, and their presence had a sobering effect on the others, who about one o'clock in the morning dispersed.

The prisoners were subsequently tried in court, convicted and sentenced to fourteen years' imprisonment, the extreme penalty prescribed by the statute for the offense charged. Windred subsequently escaped but Burdue, still almost universally believed to be Stuart, was sent to Marysville to be tried for the murder of Sheriff Moore. His trial was an interesting one. He stoutly protested his innocence and as stoutly denied that he was Stuart; but several witnesses who claimed to know Stuart, to have eaten with him, played cards with him, and some even to have slept with him, declared that he was Stuart, and no other. Some of these testified that Stuart had a ring of India ink around one of his fingers on the right hand; that there were also some spots of India ink between his thumb and forefinger; and that one of the fingers was stiff or misshapen. The prisoner's hand showed all these marks. Another testified that Stuart had a scar on his cheek. As the prisoner's beard at that time covered his face the court ordered him to be shaved and a scar was shown. For the defense Judge Stidger, of Foster's Bar, swore that Stuart had more than once been arraigned before him, and that while he and the prisoner strongly resembled each other, Stuart was nearly two inches taller and much quicker in his movements; his eyes were the same color as those of the prisoner but had a very different expression; the complexion and bearing of the two men was not the same. B. F. Washington, recorder at Sacramento, testified to much the same

effect. The jury after deliberating two whole days and one night brought in a verdict of guilty and the prisoner was sentenced to be hanged.

Before the time came to execute this sentence other exciting events occurred in San Francisco which diverted attention from Burdue, and one of them saved his life. On May 4th, the anniversary of the great fire of 1850, another and more diastrous conflagration than any that had preceded it swept over the city. It began in an upholstery shop on Kearny street, near where the first great fires had started, and in a few hours the whole business part of the city was swept away. Nineteen blocks besides parts of five or six others were burned over. Among the buildings destroyed were the new custom house—a four story brick building with porticos and double stairways from story to story in front, at the corner of Montgomery and California streets—and many other substantial structures, as well as all the ships that had been shut in by the filling of Sansome and Battery streets. Several buildings sheathed in iron and supposed to be fire proof were burned, and in one of them six men lost their lives. Others were killed by falling walls or were suffocated while trying to escape through the fire swept streets, the planking of which was burned in many places. Some of the wharves were saved only by blowing up sections of them nearest the shore, and the flames were thus prevented from spreading to the shipping.

Once more the now almost ruined merchants and property owners turned to the work of rebuilding, and with resolution to build stronger and better than ever before. The enterprise which had led them to make the long journey overland, or the longer journey by sea, was by no means broken or diminished, nor was their confidence in the city and country to which they had come to make new homes in any degree lessened. Added to this strong spirit was the awakening determination to defend themselves against future dangers as they had made defense upon occasion in the wilderness or on shipboard. This determination had shown itself and proved its efficiency in the affair of the Hounds; it was about to prove itself still more effectively.

Fifty-four murders had been committed in San Francisco alone within the preceding twelve months. Several times as many had been committed in the state, in most cases for robbery, and yet not one murderer had been brought to justice by the courts. There had been more talk than ever about incendiaries since the last fire. The firemen had been frequently called out to check incipient fires that had been mysteriously started. The rough element was even more arrogant than it had been. Evidence was not lacking that it had prospered while the city was burning; its members had defiantly refused to help in saving goods or staying the flames, and many of them had openly engaged in plundering. The conviction grew that they were incendiaries as well as thieves and that they were planning new spoliations.

On June 3d, a rough character named Benjamin Lewis was put on trial in the recorder's court on a charge of arson. A crowd similar to that which had assembled when Burdue and Windred were to be examined soon gathered about the building, and cries of "hang the fire-raising wretch," and "no more law's delay" were frequently heard. Mayor Brenham, who had succeeded Geary in April, when a new council and other officers had been chosen, attempted to quiet the excitement, but the crowd listened with greater relish to Colonel Stevenson and Sam Brannan, who advised a course of action more agreeable to its inclinations. The court officers meantime became alarmed and hurriedly removed the prisoner to a place of safety.

Many even of the most peaceably disposed and order-loving citizens now felt that a time was near at hand when radical action must be taken; they must assert themselves or the rabble would both rule and ruin them. The merchants had already organized a night patrol with W. F. Macondray as captain, and twelve of its hundred members patrolled the streets in the business district every night. On Monday, June 9th, some of these and other citizens met at noon in the California engine house where the situation was discussed; in the evening another meeting was held at Brannan's office on the northwest corner of Bush and Sansome streets, at which a preliminary organization was formed and later perfected under the name Committee of Vigilance. Its purpose was declared to be "to maintain order, and sustain the laws when properly administered." Its members pledged themselves to establish and maintain a central meeting place, or headquarters, at which some of them would be in constant attendance, day and night; that when any act of violence was reported to these, which seemed to call for the attention of the full committee to aid

in executing the law, or inflicting punishment upon offenders, it should be called together, by day or by night, by two strokes upon a bell, repeated with an interval of one minute between, until ordered stopped; that when the committee had assembled, the decision of a majority should be binding upon all, and all members pledged themselves to sustain and defend each other in carrying such decisions into effect, "at the hazard of their lives and property"; that the secretary should detail members to be in attendance in turn, and that each member should render the service demanded of him.

It was resolved to give general notice that information from every source would be welcomed as to the whereabouts of dangerous criminals, and that all such would be notified to leave the city within five days, after which time they would be compelled to depart; that a committee of thirty members had been appointed to visit every vessel arriving with suspicious characters on board, and unless they could offer proof of good character and intentions, they would not be allowed to land; and all good citizens were invited to join the committee in its work.

These declarations were signed by some two hundred persons and given to the newspapers for publication. First among the signers were Selim E. Woodworth, and following were S. Brannan, E. Gorhan, F. A. Woodworth, and Geo. J. Oakes. Selim E. Woodworth was the first president, and Brannan the first chairman of the executive committee. Among the most active members were Stephen Payran, Gerritt W. Ryckman, Isaac Bluxome, Jr., W. T. Coleman, and George R.

Ward, who on more than one occasion proved themselves to be men of sound judgment, devoted to duty as they saw it, and absolutely insensible to fear. There were other men of equal responsibility in the community, who did not approve the methods of the committee, but they did not seriously oppose its operations. They thought it dangerous—as it undoubtedly would be in any ordinary condition of things—to take the administration of the law out of the hands of the regularly constituted authorities; and they doubtless did not suppose that an irregular method could be employed with so much dignity and respect for justice as these men were to use it.

The committee had hardly been formed when opportunity offered to test the sincerity of its purposes. Late in the afternoon of June 10th a tall, powerful man who had been lounging about Long Wharf, in the neighborhood of one of the shipping offices, seizing the moment when the agent was attending to the departure of a vessel, walked inside, picked up a small iron safe which contained a considerable sum of money, and hurrying with it to a boat, pushed off toward deep water. His movements had been observed by men employed on the wharf and others, and soon half a dozen boats were in pursuit. The race was not a long one. The well manned boats of the pursuers gained rapidly on the robber, who, when capture became inevitable, threw the safe overboard. He was soon overhauled, the safe recovered, and both were taken directly to the rooms of the committee. The bell was sounded and members of the committee hurried to headquarters, while a crowd of expectant citizens

filled the streets. A trial was immediately begun, and although the prisoner's guilt was easily proven, it lasted until eleven o'clock. The prisoner's appearance and conduct proclaimed him a hardened criminal. He was in fact a deported English convict and gave his name as John Jenkins. The stealing of the safe was proven and the jury found the prisoner guilty. It was not so easy, however, to fix the penalty. Some hesitated to hang a fellow creature for a crime usually punishable only with imprisonment, though few can have doubted that Jenkins deserved hanging. But hanging was finally agreed upon and it was also decided to carry the decision into effect immediately. The prisoner received the announcement with apparent indifference and asked only for a glass of brandy and water and a cigar which were given him. Asked if he wished to see a minister he hesitatingly consented that one might be sent for and one was summoned.

Brannan was then sent to tell the crowd waiting outside what had been resolved upon, for the committee wished the public to know not only what was done but why it was done. His speech, like others he had made at various times during the exciting days preceding, described the troubles which had called the committee into existence, denounced the authorities for their failure to enforce the laws, described the crime for which Jenkins had been tried, and announced the result of the trial and the penalty agreed upon. Then he asked all present whether they approved it, and nearly all answered, "Aye." Within an hour after the trial ended, the prisoner, surrounded by the committee and followed by an immense crowd was

on his way to his doom. The march led directly to the plaza, where the old flag pole on which Montgomery had first raised the stars and stripes five years earlier had been replaced by a new one more than a hundred feet high, presented by the people of Oregon to those of San Francisco. As the march led in its direction a protest was raised against its use for an execution; but there was no intention to desecrate it in such a manner. Beyond it the adobe custom house of Mexican times was still standing, and from near its roof a beam projected invitingly. Over this a rope, which had been noosed about the prisoner's neck, was quickly thrown, and drawn by willing hands it soon held Jenkins dangling in the air. His body was held suspended until morning, when a coroner's jury, after examining several witnesses, found that deceased had come to his death, "by violent means," "in pursuance of a preconcerted action on the part of an association styling themselves a committee of Vigilance," and named nine of its members. To this the committee responded with a resolution, protesting against the naming of these nine in the verdict, and declaring that all were participators in the trial and execution, and "all equally implicated, and equally responsible." This all signed and it was published in the newspapers.

Less than two weeks after the execution of Jenkins, on June 22d the city was swept away by another great fire, which destroyed all the buildings on ten squares between Clay, Broadway, Powell, and Sansome streets, and some buildings on parts of six others. It was now estimated that the total loss by fire during a period of about eighteen months was not less than \$20,000,000

and might possibly amount to \$24,000,000.* It seems well nigh incredible at this day, that a city then scarcely three years old—for it was not yet three years since its real growth had begun—could survive such a succession of disasters, whose combined losses were so great. It is even more incredible when we remember the turmoil and confusion of the time, which made the possession of property and even of life uncertain. But people showed no sign of discouragement. Even those who had been burned out repeatedly,† and some who had been entirely ruined, began anew with undiminished confidence in the future. Better buildings were begun and finished. Granite for the Parrott building at the corner of Montgomery and California streets, was quarried and cut in China, and brick and stone for other buildings, which like it remained until the greater fire of 1906, were brought from distant states, when it was not possible to procure them rapidly enough at home; and in the summer of 1852 a well built modern city stood on the ground where one night in November, 1849, Bayard Taylor had seen only a city of tents and canvas houses, through which the lamps shimmered like an ignis fatuus.

After the hanging of Jenkins the members of the vigilance committee continued to meet, to inspect incoming ships, to prevent the landing of suspicious characters, and compel those who had already landed to leave town or to arrest them. They met with some opposition from the authorities, and some from other citizens as respectable as themselves, who thought

^{*}There was no insurance on any of the property destroyed, as no insurance agencies were established in California until September, 1852.
†Thomas Maguire, owner of the Jenny Lind theatre, was burned out six times.

their actions unwarranted. To show that they were not to be turned from the work they had begun, until they had reason to think it completed, they published another general notice on July 5th, announcing that they believed themselves to be engaged in a good work; that no good citizen ought to interfere with it, or withhold information of value; that in the prosecution of this work they intended to enter private premises, where they had reason to believe they might find evidence of value; "and further, deeming ourselves engaged in a good work and just cause—we intend to maintain it."

During the prosecution of their work a person was arrested early in July who bore a striking resemblance to that Thomas Burdue, who had been arrested, tried and convicted for the assault on Jansen in February and later, as James Stuart, convicted at Marysville and sentenced to be hanged for the murder of Sheriff Moore. As Burdue was still in jail awaiting execution, it was suspected that the new prisoner might be the real James Stuart, and that Burdue might, after all, prove to be Burdue and not Stuart, being therefore, innocent of both crimes. Such actually proved to be the case. After much questioning, the real Stuart was led to make admissions which, skilfully used as they were, involved him in complications from which he was not clever enough to escape; he brazenly declared himself to be the real Stuart, told the story of his attack on Jansen, murder of Moore, and various other crimes, giving the names and description of his accomplices, some

of whom were city officials. Like Jenkins he was a hardened criminal, and when trapped, was disposed to boast of what he had done.

At nine o'clock on the morning of July 11th, the bell at the committee headquarters again sent forth its warning. Stuart was put on his trial, as Jenkins had been, and was in due course convicted. He was given two hours in which to prepare for his death, and Colonel Stevenson was sent, as Brannan had been, to tell the crowd outside what was to be done. As before. the crowd approved. At the end of the two hours Stuart was led out, heavily manacled, and under guard of the whole committee escorted to the end of Market street wharf, an immense crowd following. Stuart bore himself stolidly until near the end of the long march when he showed some signs of weakness, but soon recovered. A derrick offered what was needed for the occasion, and over this a rope was thrown, the noose was adjusted to the prisoner's neck, and he was quickly drawn up to his death.

Two other ruffians, Samuel Whittaker and Robert McKenzie, were apprehended, tried, and executed before the committee felt that it might safely suspend its operations. Both had been implicated by Stuart in his confession, as confederates of his in various crimes. Both had confessed their guilt, but for some unexplained reason, were not immediately executed as Jenkins and Stuart had been. While awaiting execution Sheriff Hays, with several deputies, unexpectedly visited the committee rooms at a time when only a few members were present, and removed the prisoners from its custody to the city jail. The alarm bell was

immediately rung, and althought it was past midnight, a large number of members assembled. They found, much to their surprise, that the prisoners had not only been taken out of their possession, but on a writ of habeas corpus sued out by Governor McDougal, who, in January had succeeded Burnett. No immediate effort was made to recapture the prisoners, but three days later, on Sunday, while all in the jail were listening to a religious service, thirty-six members of the committee, fully armed, suddenly appeared, seized Whittaker and McKenzie and hurried them into a carriage waiting near the door. At about the same moment the bell of the Monumental Engine company sounded the alarm, and a crowd immediately assembled. The committee headquarters had some time before been removed to new and larger rooms on the second floor of a double frame building on Battery street between California and Pine, and thither the two were hurried. Two beams projected from the roof above the windows of these rooms, and from these the culprits were soon hanging, each at the end of a separate rope.

The hanging of these two wretches was the only act of the committee which seemed to be hurried, though in fact it was not, for both had been patiently tried and their guilt fully proven. Their execution was performed without the notice and explanation which had been given in the cases of Jenkins and Stuart, to avoid a rescue by the officers of the law, who should have been their executioners, but chose to be their defenders.

The thieves, murderers, garroters, incendiaries, and other criminals who had so long infested the city, now began to understand that they would no longer be permitted to pursue their ways with impunity. They had no relish for hanging and realized that they would come to that end if they continued their depredations. Many left the country and many others left the city to pursue their devious ways in places where punishment seemed less certain. But the committee did not disband; it only suspended its operations until there should be need to resume them. Its members were already warned that they would be required to defend themselves against the vexatious lawsuits with which they were long persecuted, and they resolved to oppose them as unitedly as they had acted hitherto.

And there was another and a greater reason for continuing their organization. Vigilance committees had by that time been organized in most of the interior towns and many mining camps, in imitation of their own, and these could be helped by the older and stronger organization. In Sacramento, squatters had given much trouble during the preceding year, as they had also in San Francisco, Stockton, and other places. Encouraged by scalawag lawyers they had set up the claim that the grants of land to Sutter, Weber, and others by the Mexican government were illegal; they entered upon any vacant property that pleased them, sometimes upon lots for which \$10,000 or more had been paid, and refused to vacate even when the courts had pronounced their pretensions illegal and ordered them ejected. Two pitched battles had been fought between them and the officers of the law, in one of which the county assessor had been killed and the mayor seriously wounded on one side, and three of the squatters killed on the other; in the other the sheriff and two squatters were killed and several wounded on both sides. So serious did the rioting become that a party of armed citizens went from San Francisco to assist in restoring order.

In addition to the squatter troubles the town was infested with thieves and murderers. Four of these attempted to rob a citizen in open day but were all arrested. The vigilance committee demanded possession of them, but when this was refused they forced their immediate trial, and three of them were sentenced to be hanged. Before the day of execution arrived one of them was reprieved by the governor; but the committee demanded that the sheriff should hang all three at the same time. He refused, whereupon they hanged the third man themselves.

A large part of Stockton was destroyed by fire in May, 1851. It was supposed that it was started by the rough element as a means of liberating some of their number who were confined in the city prison. Shortly afterward one hundred and seventy citizens enrolled themselves as a city police.

With these and other organizations in the interior, the San Francisco committee remained in correspondence for several months, giving and receiving descriptions of dangerous characters, and where possible, aiding in their extermination. There was greater need than ever for helping these defenders of the general safety, now that the criminals were leaving the larger community to prey upon the smaller ones; and this

help the San Francisco organization long continued to give. A few of its members in turn remained at head-quarters, attending to correspondence, and giving aid and encouragement where needed, keeping watch for the reappearance of the dangerous characters who had been driven away, and ready at any time to sound the alarm which should summon the whole committee to active service.

Once only after the execution of Whittaker and McKenzie was the alarm bell sounded. Late in October a ship arrived from New York, whose crew had mutinied during the voyage and some of them had been roughly handled by the captain and mate in subduing them and afterward. On arriving at the pier these found ready sympathizers among people of their kind to whom they appealed for vengeance. A mob was soon formed which might have hanged the captain had he been found. When report of the trouble reached headquarters the bell was sounded and the vigilantes assembled in force. They were not disposed to have what they had done without passion or disorder, used to justify or excuse the acts of a riotous mob; so they marched to the wharf, dispersed the rioters, and then returned quietly to their several places of business.

A grand jury was directed to make inquiry about the work of the committee, in July. In his charge directing the inquiry, Judge Campbell spoke of the hanging of Stuart as "an outrage" and "wholly without excuse or justification." The committee, in his estimation, had "undertaken to trample on the constitution, defy the laws, and assume unlimited power over the lives of the community." Every person who had aided in

taking Stuart's life was "undoubtedly guilty of murder" and he charged the jurors that it was "their sworn duty, which they could not evade without perjuring themselves, to carefully investigate the matter and do their share toward bringing the guilty to punishment."

But the jurors returned no indictments. They apparently did not view the matter at all in the light the court expected. "When we recall the delays," they say in their report, "and the inefficient-we believe that with truth it may be said—the corrupt administration of the law, the incapacity and indifference of those who are its sworn guardians and ministers, the frequent and unnecessary postponement of important trials in the district court, the disregard of duty and impatience while attending to perform it manifested by some of our judges having criminal jurisdiction, the many notorious villains who have gone unwhipped of justice, we are led to believe that the members of the association have been governed by a feeling of opposition to the manner in which the law has been administered and those who have administered it, rather than a determination to disregard the law itself." The power to correct all abuse, the report went on to say, was with the people themselves; but when officers proved unfit for the station they occupied, when the laws were not executed, when arraigned criminals procured their own friends to be placed on the juries that tried them, there was no immediate remedy. If citizens who were most interested in having good laws and good government, would not give sufficient attention to elections to procure proper and sober legislators, judicial, and other officers, and neglected to obey the mandates of courts when summoned as jurors and witnesses, they could not expect to enjoy that security of life and property which government was expected to give. It was because of such neglect, the report clearly indicated, that the community was now suffering from the irregularities complained of. The jury deploring the acts of the committee but believing that its members, at great personal sacrifice to themselves, had been influenced in their action by no personal malice, and had acted for the best interests of the whole community, "at a time, too, when all other means of preventing crime, and bringing criminals to deserved punishment had failed, here dismiss the matter as among those peculiar results of circumstances that sometimes startle communities, which they can neither justify, nor by a presentment effect any benefit to individuals or the country, and with the assurance that there is a determination on the part of all well disposed citizens to correct the abuses referred to, by selecting proper officers to take the place of those who have violated their trusts, and by performing each his part in the administration of the laws. When this is done the ax will have been laid at the root of the tree, the proper remedy applied for the correction of the grievous evils our city and country have so long suffered, and there will be no further necessity for the action of the committee."

This was strong language, and it is not surprising that Judge Parsons of the district court should have attempted, as he did, to have the report amended by striking out its objectionable features. In doing so he made statements which the jurors later in a published statement, denounced as "willfully and unqualifiedly false," and declared their belief that the judge knew them to be false when he made them.

The reports of this grand jury, and the one that followed it show that there were strong, earnest men in California at that time, who, while they could not approve the methods of the committee, still refused to condemn them; who were bold enough to tell judges and others high in authority that their own neglect of duty had made a resort to unusual measures excusable if not unavoidable, and honest enough to confess, for themselves and their fellow citizens, that they were not altogether blameless for permitting such men to be in office.



CHAPTER X. PERSONAL AND PARTY POLITICS



HE Californians of the early fifties cared little about political parties. They were too much absorbed with their own private affairs to take much interest in whigs or democrats. The great national issue which had so recently overshadowed all others, had been put to rest, forever, as they sincerely hoped and believed, by the compromises of 1850, of which the admission of their state had been one; and now that it was safely disposed of, all such matters as the tariff, the bank, and the authority of the general government to build roads or deepen rivers seemed uninteresting. Many hoped that a time was at hand when there would be no more parties, or need of them. There was much talk of "no party," and of "a union of Californians for the sake of California." A meeting of the whig members of the legislature held in the senate chamber at San José in February, 1850, deprecated "the organization of mere political parties, and the promulgation of doctrines calculated to arouse all the acuity of party spirit"; nevertheless, a committee was appointed to declare the policy of the whig party. About the same time a mass meeting of whigs was held in San Francisco to nominate a candidate for sheriff, and it declared that the whigs of San Francisco and California had had enough of "no party" and of "a union of Californians for the sake of California," and that they would thereafter vote for "no man who was not an open and undisguised whig."*

The democrats had previously held mass meetings in San Francisco and elsewhere, in which the principles of the party had been declared at length, and candidates

^{*}Davis, Political Conventions in California, p. 7-8.

nominated for the constitutional convention and for various local offices. But no state organization had been formed when the first election was held in 1849, nor was any state convention held until 1851. An attorney-general, clerk of the supreme court and superintendent of public instruction were elected in October, 1850, but the only nominations made were by county conventions or primaries held in San Francisco. The democratic candidates for attorney and clerk, and the whig candidates for superintendent were elected.

The first general state convention was held by the democrats at Benicia, May 19, 1851; it nominated John Bigler for governor and also a full state ticket. The whig convention was held at San Francisco on May 26th and nominated a full ticket with Pearson B. Reading at its head. Both conventions put forth elaborate platforms, though that of the whigs only has been preserved. It contains little of present day interest except a declaration in favor of the establishment of steam communication with the Sandwich Islands and China, and another censuring the general government for not having already established a mint in a region where so much gold was being produced.

Although these conventions were held more than four months before the election, the candidates and other political workers who actively canvassed the state in their interest aroused but little enthusiasm among the voters. The one all absorbing subject of interest during the campaign was the vigilance committee and its work, and neither of the parties had taken ground with regard to it. In fact both conventions had been held before the San Francisco committee was organized and

began its work, and possibly they would have avoided mention of it had the situation been different; for political parties are usually cautious about declaring their convictions and purposes with regard to matters of burning interest, until the popular opinion with regard to them is either well known or easily guessed. So while popular attention was absorbed in other matters it was difficult to win it to things of less concern. Voters still knew little of the candidates personally; it was only as they had opportunity to observe them for an hour or two at some public meeting that they made effort to judge between them. The total vote cast was a little over 44,000, of which the democrats had an average majority of over 1,000. John Bigler was elected governor, Solomon Heydenfeldt judge of the Supreme Court, and J. W. McCorkle and E. C. Marshall members of congress.

The legislature had failed to elect a senator to succeed Colonel Frémont at the session preceding this election, although one hundred and forty-two ballots were taken. The election therefore went over to the next session, a year later, when a new candidate appeared who was thereafter, while he lived, to be a disturbing and finally a dominating factor in the politics of the state.

David Colbrith Broderick had come to California in the early summer of 1849, and in January of the following year had been elected to the state senate from San Francisco, to fill a vacancy caused by the promotion of Nathaniel Bennett to be chief justice of the supreme court. Less than a year later, upon the resignation of Governor Burnett and the consequent advancement of Lieutenant-Governor John McDougal to the governorship, Broderick had been chosen as president of the senate, a promotion that argued either the possession of conspicuous ability as a parliamentarian and legislator, or of great skill as a political manager. He in fact had both.

He had been born at the national capital in February 1820, of humble but honorable Irish parentage. His father was a stone cutter and had been employed to do some of the finest carving on the columns and pediments of the capitol building. Before attaining his majority his family removed to New York, where, after his father's death, he served his full term as a stone cutter's apprentice. He also joined the volunteer fire department, becoming in time foreman of his company. In those days promotion in the department depended not less on the possession of skill in fighting fire than in muscular power, cleverness and courage in the personal encounters with other companies; for such encounters frequently, if they did not usually, preceded the beginning of a battle with the common enemy. In both kinds of fighting young Broderick is admitted to have shown great efficiency. As a fireman he was naturally drawn into politics, and under the tutorship of the Tammany chieftains of the time, he advanced from one position of trust in that organization to another, until he was thoroughly schooled in all its methods and leader in his ward. Then he was appointed to a position in the custom house, and finally was nominated for congress but was defeated.

As his opponent was of aristocratic, while he was of plebeian origin, he attributed his defeat to that cause, and was much embittered by it. He resolved to leave

DAVID COLBRITH BRODERICK IN 1856

United States senator. Born at Kilkenny, Ireland, in 1820; died at San Francisco, September 16, 1859; came to California from New York in 1849. He was elected to the United States senate, January 9, 1857, and fell in a duel with David S. Terry, September 13, 1857, the last political duel in California.

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New York, go to California, and never return until he could come as a United States senator. This resolution was encouraged by George Wilkes and other friends, who not only fed the flame of his ambition, but had helped him to deserve advancement. They had loaned him books, planned for him a course of reading, and by their help he had already made considerable progress in the study of general literature and of the law. His mother and brother were dead; he was alone in the world and there was no reason why he should not go anywhere on earth he might choose. He took an early steamer for Panama.

Arrived at San Francisco, he found the political conditions quite to his liking. There were no party organizations to be captured or overcome. There was an open field for a young man not yet thirty, with abundant health, equally abundant courage, and a thorough Tammany training, to build up a personal party that should serve his ends. Excellent material for such talent to work upon was not lacking and there was nothing to hinder the use of it. There was no registration law and not many inquired too particularly whether the naturalization laws had been carefully observed in every case. His chief needs at the time were money and the acquaintance of a few friends upon whom he could rely and these he soon acquired. Had he possessed tact to use the power which he rapidly acquired, and a less ungovernable temper, had he relied less confidently on mere force and the methods he was to use, he might have gained what he sought with less

opposition, lived the lease of nature, and come to his grave as the ripened corn comes in due course and in the full enjoyment of the honors he had won.

California now had a senator and a candidate for the senate both of whom had come to it avowedly to win senatorial honors. Both were democrats and both able politicians; both expected to use the same means to secure their ends, though not equally skilful in their use. William Mackendree Gwin was southern born and had studied medicine, though he had not practised long. He had grown up among men who made politics a part of the serious business of their lives, had early been appointed to a federal office, and had served one term in congress. He expected to live as he had lived, an office holder.

At the beginning of their rivalry Gwin had the advantage of Broderick in that he already held the place to which he aspired. He valued it rather because of the opportunity it gave him to serve the interests of the south, in which he had been born and to which he was intensely devoted, than those of the state in which he was a sojourner. Though placated by the compromise of 1851, the south was still aggressive. By the admission of California it had lost the right to that equal representation in the senate which it had long been able to maintain, but had regained equality for the time being by finding in Gwin a heart-loyal supporter of its interests. Gwin enjoyed to the full the distinction which his peculiar position gave him and was more than ever anxious to retain it. The failure to elect a successor to Frémont had left him for a whole year in control of such federal patronage in the state

as could be secured by a democrat from a whig president, and he had made adroit use of the opportunity it gave him to strengthen his position. He did not care to have the disposition of it disturbed then, or later when a democrat might be in power, particularly by a man who knew how to make far more effective use of it than he. There were already beginning to be two factions in the party in the state, a northern and a southern, not yet aggressively arrayed against each other, but likely at any time to become inharmonious. The northern element was the most numerous, the southern the most alert, assertive, and for the present in control, because its assumptions were not seriously disputed. To remain in control would not only be convenient and agreeable, but necessary if Gwin was to retain his place; to permit a man of Broderick's force of character, resourcefulness, and untiring industry to acquire influence, was almost certain to lead to disaster.

The contest between these leaders so differently constituted, began to take form when the third legislature chose Frémont's successor in January, 1852. Then for the first time Broderick appeared as a candidate in the democratic caucus, but after a few ballots John B. Weller was nominated, though under conditions that suggested some understanding for the future with his principal opponent.

The Broderick delegation from San Francisco was excluded from the state convention which met in February to choose delegates to the national convention by a contesting delegation in which there was a number of delegates whose names are still well remembered. These were John W. Dwinelle, Jacob R. Snyder,

Solomon Heydenfeldt, John D. Hayes, James Donohue, and Peabody A. Morse. Broderick's delegation was headed by himself, Judge Alexander Wells, and Edmund Randolph; it favored the nomination of Stephen A. Douglas for president while its opponents in the convention wished to express no choice. As this was the first presidential contest in which California would take part this rebuff was discouraging, and especially so for the reason that in the event of the election of a democratic president it would be but a poor recommendation to his favor to have had no part in securing his nomination. Broderick and his fellow delegates published a protest against the treatment they had received, but showed no other sign of resentment.

Other conventions were held in July by both parties at which candidates for congress and for presidential electors were nominated. In the democratic convention Broderick gained a place on the committee and later was chosen chairman. At the election in November the democrats carried the state by a majority of more than forty-five hundred, in a total vote on electors of 74,736. Two years earlier the total vote had been only 44,144. Milton S. Latham and James A. McDougal were elected to congress.

So far the platforms of both parties had been confined mainly to approvals of the policies declared by their national conventions, demands upon the national government for a transcontinental railroad, steamship connection with the orient, fortifications, aids to navigation, better postal service, a mint, etc. Local issues, aside from those the national government alone could

determine, had received but scant attention. The whigs had not attacked the administrations of Burnett and McDougal, although there had been criticism in the legislature of various expenditures, particularly for the public printing. Expensive expeditions to quell Indian uprisings had been sent to the Colorado, and to El Dorado county, in which but little had been accomplished, and the state debt had been increased in various other ways until it far exceeded the constitutional limit. McDougal had lost something of the public regard he had won in the constitutional convention, by his liberality in pardoning criminals, and by issuing a proclamation while the vigilance committee was at work in 1851, calling upon all good citizens to "sustain the lawful authorities, and discountenance every attempt on the part of any self constituted association to exercise despotic control." This high sounding pronouncement appeared while the committee had Whittaker and Mc-Kenzie on trial, and, it was supposed, was about to hang The committee replied, through a published declaration signed by its members, that the governor had recently visited its rooms, where he had expressed his approval of the work it was doing, together with the hope that it would continue, "and in case any judge should be guilty of maladministration to hang him and he would appoint others." The absurdity of the governor's conduct in thus publicly denouncing the committee, after privately approving it, cost him much in the public esteem. It was not unlike him at this period in his career. He was a man of expedients rather than of principles, and sought rather for the applause of the moment than for that of posterity. He assumed a pompous importance when he became governor by Burnett's resignation, dressed in ruffled shirt, buff vest and pantaloons, with blue coat and brass buttons, and generally manifested an air of superiority which so well comported with the lofty language of proclamations that he came to be spoken of as "I John." He naturally hoped for reëlection, but failed of nomination, and his last official manifestation of the shallowness of his character, was in tendering his resignation as soon as he received notice that the legislature had finished the official canvass and declared the election of his successor; but as that successor was at the very moment waiting to be inaugurated no attention was paid to it.

In the campaign of 1853 public attention was for the first time, turned sharply to local issues. The democratic convention met in June and renominated Bigler; the whigs met two weeks later and named William Waldo as his opponent. The platform adopted severely arraigned the dominant party for having "bankrupted the treasury," loaded the state with "a debt too grievous to be borne," and which "sits like an incubus on all our energies." "In its short but fast career," this dominant party had "collected and disbursed \$1,500,000 of the people's money, and fixed a debt upon our labor, property, and energy of \$3,000,000." "All this in three short years, and not for public buildings, public improvements, or public works, but to strengthen official cormorants and make their power for evil greater than before." Therefore the party, and specifically "the Bigler dynasty," was denounced in a series of twelve resolves in which their various short comings were particularized, and reform as particularly promised in case of Waldo's election.

Broderick was again made chairman of the democratic committee and pressed the campaign with both method and vigor. The opposition to Bigler was something more than partisan. He had favored restricting the immigration of foreigners, particularly of the Chinese, which had been popular for a time, but was now regarded with less favor. He had also favored a proposal to extend the water front of San Francisco six hundred feet beyond the original survey, claiming that the ground so reclaimed might be sold for enough to reduce the state debt by \$2,000,000. The proposal had been vigorously resisted in the legislature as well as by the people of San Francisco, on the ground that the state could claim no title beyond the line of ordinary low water, and if it could, to reclaim and plat this six hundred feet would make a regrade of all streets near it necessary, and would besides invade the rights of lot owners in the original grant by Kearny to the city which grant the state had confirmed. But the city had really derived little benefit from the original sale of lots in the Kearny grant, as they had been levied on by Dr. Peter Smith, to satisfy a judgment by him in satisfaction of a claim for caring for the indigent sick. They had been sold at a time when there was almost no demand for them, when the city's credit was at low ebb, and it was not possible to protect its interests, and at ridiculously low prices. They were now very valuable, and some advocates of extension felt that the owners had made such enormous profits that they would really be robbed of nothing that belonged to them of right, by what it was proposed to do. In addition it was developed that four of these purchasers claimed to have bought this six hundred foot strip with their original purchase, and that they were proposing to allow the state only a third interest in it for asserting and establishing their title—so if the scheme could be made to succeed they would make \$4,000,000 while the state made only half as much. To this it was replied that the state was deeply in debt; that the debt could not be paid, or even reduced without an increase of taxation which was already too burdensome to think of increasing it if it could be avoided, and this scheme offered the means to reduce the debt by half, or more than half, without cost to the taxpayers.

While the proposition was not yet as unpopular as it subsequently became under Bigler's urgent advocacy of it, it was made much of during the campaign and no doubt cost him many votes. Nevertheless he was reëlected though by a much smaller vote than any other candidate on his ticket. His majority was only 636, while that for lieutenant-governor, who was very popular, was over 11,000 and that for the controller nearly 7,000.

Broderick had greatly advanced his own prospects as a candidate for the senate by his successful management in two successive campaigns. He had gained a general acquaintance with people who took an active interest in politics in all parts of the state, and success gave him their confidence. He made use of this to show those who had most deserved to be rewarded for work done, that he knew how to appreciate good service and would find ways to show his appreciation. He claimed, and was allowed to have much influence in the distribution of the state patronage; he already con-

trolled that of the city of San Francisco and much of that in Sacramento also, but was allowed only a small share in that of the federal offices. That was controlled by Gwin and his adherents and was distributed almost solely in his interest and that of his southern allies. The custom house was already beginning to be known as the "Virginia poor house" because of the number of people from southern states employed in it and the offices of the marshal, attorney, naval officer and surveyor, as well as all the post offices were similarly provided. Gwin was also beginning to be successful in procuring appropriations to be expended in the state. He was chairman of the committee on naval affairs and also had a place on the finance committee, the most influential committee of the senate places he had doubtless secured through the aid of southern senators because of his usefulness to their cause. With their help he had secured in 1852 an appropriation of \$300,000 for a mint,* \$200,000 for a dry dock and blacksmith shop, which was the first appropriation for the Mare Island navy yard, for which \$180,000 was appropriated in 1853, and \$1,000,000 in the year following. Large sums were also secured for fortifications on Alcatraz island and at Black Point; for lighthouses and other aids to commerce, as well as for the coast survey and for various other purposes. In the disbursement of these appropriations, or most of them, Gwin found opportunity to reward many of his henchmen. Broderick did not fail to ask and

^{*}This was subsequently diverted by Gwin's influence, and applied to the enlargement of the assay office, which charged the miners two and one half per cent for making assays which were made elsewhere for a fraction of one per cent.

even to demand places for his supporters among these federal employees, though he was accorded but few.

It could hardly be otherwise than that the division between the northern and southern members of the party should be gradually widened by this policy, though there were other matters that contributed to it. The few free negroes in the state were a cause of irritation in some quarters, and a few slaves had been brought to it, in spite of the constitutional prohibition, that were the cause of still more. In 1852 a fugitive slave law had been proposed in the legislature and passed the lower house, but when it reached the senate Broderick had offered amendments that were distasteful to the pro-slavery element. A long debate followed which disclosed that Broderick and other northern members had no very kind feeling toward slavery. Their regard for free labor was further shown in the consideration of an anti-Chinese measure. In 1852 the northern element had sought to instruct the state's delegates in favor of Douglas for president, while the southern had preferred Cass or Walker, though no instructions were given. Such differences. though not very serious, nevertheless marked a line of cleavage that would more clearly appear under the influence of events that were about to happen.

As chairman of the committee and manager of the campaign of 1853, Broderick had given a due amount of attention to the legislative districts. A majority of democrats had been elected to both the house and senate, and more than half of them, though not a majority of the whole, were his friends, or friendly to his candidacy for the senate. Before the legislature met in

January, 1854, he had resolved upon a bold scheme to secure at once the prize he so ardently wished and had so diligently worked for. This was to force the election of a successor to Senator Gwin more than a year before his term would expire. There was then no precedent for such a course—although senators have since been elected in some states as long before the seats they were to fill became vacant—and there was no law for it in California. The first step therefore would be to procure the passage of a special act providing for this election, and this he set about to do. In furtherance of his plan he purchased the "Alta California" to champion his cause. An address to the people was carefully prepared and published, setting forth that on account of the distance of California from Washington, and the uncertainties of travel, it might not be possible for a new senator to reach the capital in time for a special session of congress in case one should be called, if the election was left to the next legislature, and the state might be again left with only one representative in the senate as it had been once before. No state or national law, and nothing in the constitution forbade what it was proposed to do; if it had never been done before it was because there had been no reason for doing it, such as now existed. The opposition also published an address denying all need for an immediate election and resisting it generally on the ground of usage.

But the Broderick party was determined and on January 27th a bill directing the legislature then sitting to elect a senator on a day fixed, was introduced. It immediately became the one subject of intense interest, though others soon became involved with it, chief

among them being the election of a state printer and the location of the state capital not yet settled. Members from the southern counties were still complaining about unequal taxation, and endeavoring to have a new constitutional convention called, or at least to have the constitution so amended as to relieve them from a part of their burden; but their cause did not seriously complicate the senatorial matter.

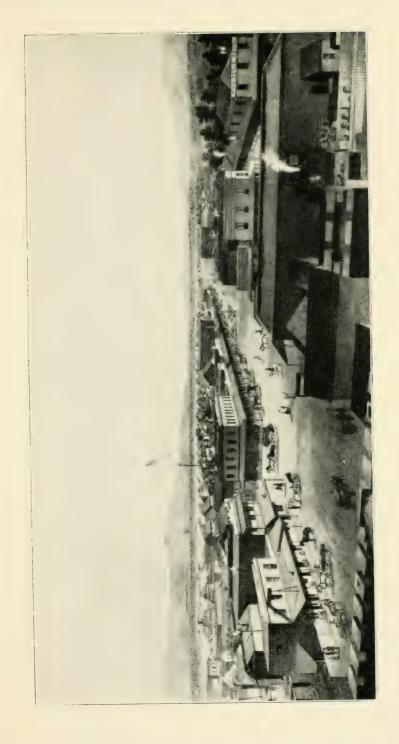
A printer was chosen without involving either side in much difficulty, but the capital matter was more serious. The constitution had provided that San José should be the capital until the legislature should, by a two-thirds vote of both houses, direct its removal. This was subsequently construed to mean that while two-thirds were required to move it from San José, it might afterwards be removed to any other place by a

majority.

Various towns and individuals had submitted proposals to the first legislature, among which the most advantageous seemed to be that of General Vallejo who offered to lay out a town on Carquinez Strait, in or near which he would give the state one hundred and sixty-five acres of ground, and give besides \$370,000 toward the cost of public buildings. After much discussion a bill was passed directing the governor to submit the various offers to the people at the general election in the following October and this was done. The vote, when taken, showed 7,477 in favor of Vallejo's offer, against 3,252 in favor of nearly a score of other places, among them being San José, Monterey, San Diego, San Francisco, Gilroy, Stockton, Sacramento, Benicia, Nevada City, Downieville, Eureka, Yuba City, SAN JOSÉ IN 1859 From a lithograph in the Golden Gate Park Museum. lers from the factuals c

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and various others. The second legislature voted by eleven to two in the senate, and the assembly by twenty-six to eight, to approve the people's choice; and Vallejo proceeded to lay out his town and construct temporary buildings for the state's use. In June, 1851, Governor McDougal removed the state offices to the new town but in September returned them to San José, because of the slow progress of Vallejo's building operations. Nevertheless members of the third legislature felt it incumbent on them to assemble at the place which had been officially designated as the capital, but they found their halls unfinished and unfurnished, and there were not enough hotels or private houses in the place to give them shelter, nor restaurants to provide them with food, nor washerwomen to keep them in clean linen.

Sacramento now tendered the use of its newly completed court house, San Francisco invited the legislators to meet in that city, and San José proposed to board them all at \$14 per week each during the session if they would return there. Tempting as this latter offer may have seemed at the time, considering the cost of living which was still high, it was voted to go to Sacramento. The steamer *Empire*, on board which many of the members had been living since arriving at the new capital, carried them all to Sacramento on the afternoon of January 13th and the third session of the legislature was held there.

In the hope of preventing the removal of the executive offices and state archives from San José some citizens of that place sued out a restraining order, but it was dissolved upon hearing, the records were removed and Sacramento became the temporary home of both the

legislative and executive departments of the state. The fourth legislature made another attempt to sit at Vallejo but the buildings were still unfinished and Vallejo himself now admitted his inability to carry out his contract. At his request the bond he had given was returned to him and the legislature moved to Benicia, where it occupied the city hall during the session of 1853. At that session an act was passed making Benicia the permanent seat of government,* and so the matter stood when the legislature assembled there in January, 1854. The people of Benicia were of course anxious to have their city remain the seat of the state government and had conditionally deeded their city hall building to the state for a capitol. Sacramento however, offered the use of its court house with fire proof vaults for the state records until a suitable capitol building could be erected in a public square which it offered to donate. The anti-Broderick men favored removal, probably in the hope of causing a diversion that might embarrass their adversaries, but the Broderick party were indifferent. The issue was decided on February 25th when the bill for removal passed both houses and was approved by the governor. On the 28th the legislative and executive offices were again removed to Sacramento, which thereafter became their permanent home, though the question of removal was not settled. While it remained undecided it continued to be used, as the same thing has since been used in other states, as a convenient bribe to secure

^{*}The river had overflowed and flooded the streets of Sacramento while the previous legislature was in session there, causing the members much inconvenience and for that reason many of them were not disposed to return there.

votes for senatorial candidates, and all sorts of schemes and measures, as well as to confuse legislation and make trouble generally.

While the Broderick men escaped embarrassment from this issue they were less fortunate in other respects. Charges of bribery and trickery of various kinds, all more or less culpable, were freely made. Most specific of the bribery charges was one made by Elisha T. Peck, a whig senator from Butte county, who on January 19th from his place in the senate, declared that he had been offered \$5,000 in gold coin by Joseph C. Palmer, head of the banking house of Palmer, Cook, and Company of San Francisco, to favor immediate election and to induce his room mate, Senator May of Trinity county, to vote for it. This charge the senate resolved to investigate and on the day fixed Palmer appeared with Charles H. S. Williams, Stephen J. Field, and Hall McAllister as his attorneys, while Peck was represented by Colonel Edward D. Baker, then just coming to be well known in the state. Several witnesses were examined though interest in the inquiry centered chiefly in the stories told under oath by Peck and Palmer. Peck's statement was given more in detail than he had given it in the senate. Palmer's, equally detailed, represented that instead of approaching Peck with an offer, Peck had come to him with a story of misfortune and had himself intimated that he could get \$5,000 for his room mate's vote. Palmer said he had replied that the matter did not seem to be one for him to consider, and Peck had, rather unwillingly he thought, dropped the subject. Later Peck had called at the bank but at a time when he was busy with another matter and he had not seen him.

After an elaborate argument in which Baker displayed his oratorical powers at their best, the senate reached the curious conclusion that Peck's charges had not been sustained but that this finding in no way reflected upon his honor and dignity.

Other though less specific charges of bribery were made, but none of these were investigated. In one case it was reported that \$30,000 and in another "more than \$30,000" had been offered for a vote.

As consideration of the bill for an immediate election progressed it became apparent that it would pass the house but the vote in the senate would be close. Each side realized the importance of having every member of that body on whom it could depend, present when the vote was taken, and as the 6th of March, the day fixed approached, the weaker senators were carefully watched to see that they were not won over by any unfair means at the last moment. On the 5th Senator Peck was thrown from a buggy and slightly though not very painfully injured. He claimed that he had been invited to drive by a friend of Broderick who had purposely let his horse run away in the hope of disabling him. He returned to the city on foot and was immediately taken into the care of the anti-Broderick men, who allowed no one to see him but themselves until he was taken to the senate chamber.

When the senate met its chamber was crowded with interested spectators. Broderick himself was present, surrounded by friends, and followed the balloting with

close attention. As the roll was called and each senator answered "aye" or "no," many pencils kept the record, and before the secretary could announce the result it was generally known throughout the chamber that the result was a tie. Then Lieutenant-Governor Purdy's name was called. On account of his position he had taken no part in the debates and could have no vote except in case of such a situation as had now arisen. He had aspired to the nomination for governor but had vielded that honor to Bigler, who desired a renomination, and had received the highest vote of any candidate on his ticket on election day. It was natural that he should still hope for the higher honor and that he would be jealous of his popularity. For that reason some supposed he would now be embarrassed in making a decision since the issue depended on his single vote; but he promptly answered "aye." Instantly the tension was relaxed and Broderick's friends crowded to congratulate him. The room was in confusion; it was impossible to suppress the cheers of the victorious party or restore order and the senate adjourned for the day.

The assembly almost immediately passed the bill and Broderick's success seemed complete. But it was not. On the day following Senator Grewell of Santa Clara, one of the doubtful few who had been so carefully watched before the ballot was taken, moved a reconsideration. It transpired that he had fallen into the hands of the anti-Broderick party during the night of the 6th and been won over. Reconsideration was voted and then the bill was finally defeated.

Broderick was now forced to begin his fight anew; but though defeated and disappointed he was not disheartened. He was to meet a still further disappointment in the near future though he did not then know or guess it. He was still chairman of the state committee of his party, a place he had held for two years, and well knew how to use for his own and his party's success. But the fight he had just made had not only made him many bitter opponents but intensified the feeling between the northern and southern elements in his party, which was soon to be made more bitter and become more general throughout the country by the repeal of the Missouri compromise and the reopening of the slavery question.

On January 23, 1850, Senator Douglas had proposed his famous Kansas-Nebraska bill, which left all the unorganized territory remaining in the Louisiana purchase open to slavery in case the settlers in it should so decide. The bill explained itself so far as to assert that its "true meaning" was "not to legislate slavery into or out of any territory, but to leave its people perfectly free" to decide the matter for themselves when they came to form a state government. People in the north, however, recognized in it the reopening of the slavery issue and the whole east was soon ablaze with excitement. In California it was regarded more calmly. Its people had sincerely hoped that the slavery agitation had been finally laid to rest by the compromises of 1850 and they were loath to reëngage in it. Nevertheless they could not fail to feel an interest in a matter of so much importance, held honest views about it, and upon occasion expressed them. Broderick was perhaps more outspoken than most others. As a born champion of free labor, it was natural that he should oppose everything that tended toward the extension of slavery; as a man of courage he expressed his views without reserve. He had been an admirer of Douglas but now opposed him, and his opposition intensified the feeling which the southern wing of his party had held for him.

When the state convention of 1854 assembled in July at Sacramento the two factions were hotly arrayed against each other. As Broderick would call the delegates to order and preside until a temporary chairman should be chosen, his faction would have a slight advantage, and to minimize this as far as possible the opposing delegates assembled at an early hour in front of the church in which the convention was to meet, ready to rush in and take possession as soon as the doors should be opened. The Broderick delegates had been secretly admitted by a rear door and as soon as this was discovered the front door was broken in and the church was immediately filled. As soon as Broderick rapped for order each faction proposed a candidate for chairman, and although Broderick recognized but one of the speakers, each candidate was declared elected and both advanced to take the gavel. A scuffle on the platform, which threatened to become a general battle, ensued but finally both chairmen were seated, each surrounded by a party of his own defenders to maintain his position. Two secretaries and two sets of vice-presidents were then named amid great confusion and such attempt as was possible was made to proceed with business, but nothing could be done. The two factions confronted each other ineffectually, though uproariously and threateningly, from three o'clock in the afternoon until nine in the evening. Once a general rush was made

for the platform to drag the officers from their places and a pistol was discharged accidentally which increased the excitement and confusion, but nobody was seriously injured. Finally the trustees of the church appeared with a declaration that they could not permit it to be the scene of such disorder and the angry delegates left it.

On the day following separate meetings were held and attempt was made to bring about an accommodation but it failed, and each faction nominated a ticket the Broderick party renominating Latham and Mc-Dougal for congress, while the opposition named J. W. Denver and Philip T. Herbert. Two platforms were also put forth, that of the Broderick party denouncing the other faction as schismatics, some of whom had refused to support a nominee of the last convention evidently meaning Bigler—and who propagated party discord by agitating "social questions of the most disturbing character," meaning of course the slavery question. The main feature of the other platform was its cordial approval of the Nebraska bill, the vote on which "shows most clearly that it was a democratic measure," though some opposing votes had been cast by "some few who claim to be democratic," an expression undoubtedly aimed at Broderick.

The whig convention nominated George W. Bowie and Calhoun Benham for congress, and adopted a long declaration of principles, one paragraph of which asserted that when the population of a territory was sufficient to entitle them to form a state constitution, they possessed "the authority to do so without the interference of, and independent of any other power";

which was a clear endorsement of the Nebraska bill. This was the last convention held by the party in California. It was now approaching its dissolution in both state and nation. Most of its southern members were soon drawn irresistibly to the democratic party, by the reopening of the slavery question, and these in California would prove a welcome reinforcement for Gwin's supporters.

The campaign was waged vigorously by all parties and factions. During its progress another effort was made to compose the quarrel between the warring democrats but without result. In November Denver and Herbert were elected.*

Though twice defeated, and now scarcely more than a private in the ranks of a minority of his party, Broderick's resolution to command success was not in the least lessened. The broken sword only made the need for more vigorous use of what remained of it the stronger, and like a good general he immediately set to work to rearrange his lines and renew the battle. He was not without means. He had succeeded in business from the hour or his arrival in the state. Engaging first in the manufacture of those \$5 and \$10 coins which for the lack of other money passed current both in towns and mining camps, he was soon able to borrow \$3,500 from Colonel Stevenson, whom he had known in New York, and forming a partnership with a jeweler, who had once been a fellow fireman, he was soon doing a prosperous business. This sort of coin-

^{*}While in congress Herbert killed a white waiter in one of the Washington hotels. He was imprisoned, indicted, and tried for murder, but acquitted. On his return to San Francisco, he was warned by the newspapers to leave the state.

ing though now forbidden by law, was then tolerated by the general government, both in California and Oregon. The \$5 and \$10 coins at first manufactured really contained only \$4 and \$8 worth of gold respectively, and though this was known the need for some more convenient medium of exchange than gold dust was so great that they passed current without question. In time \$20 and \$50 coins—the latter octagonal in shape and called "slugs"—were issued, and though proportionately less value than they claimed to be, like the smaller coins, they were accepted with equal favor.

The profits of this business were large—particularly as the gold used was purchased at \$16, and sometimes even at \$14 per ounce—and Broderick invested his share of them in real estate, mostly in water lots, some of which he bought at the earliest sales, and these so rapidly increased in value as to make him wealthy. But prosperity in no way changed his habits or his purposes. He lived plainly, though not meanly. had no expensive habits, and sought no company for the sake of conviviality, diversion, or amusement. He was not married, had no relatives, and while his acquaintance was large and continually increasing, he had and cared to have but few intimates. He spent much of his leisure in reading, particularly in that kind of reading that was likely to prove most useful to him when he should achieve his ambition. He made his plans alone, and while he went about as there was need in his political work into all sorts of places and met all sorts of people, particularly those who could be most readily molded to his use, he admitted none of them to familiarity. He was in fact a man apart.

While he attached men to his cause and made them his devoted adherents he did it rather by those means which command success than by any sentimental regard. They had increasing confidence in his ability to lead. They knew that he was always at work tirelessly in their interest and their party's interest as well as his own; that for political favors rendered he would repay with political favors; that he did not forget his promises and would spare no exertion or personal sacrifice to perform them; and more than all they admired and relied upon his courage.

This he had proved on more than one occasion as they knew. He never sought a quarrel but never avoided one, and his pulse seemed "to keep time as temperately and make as healthful music" in the immediate presence of danger as when alone. During his first term in the legislature a blustering member had drawn a pistol on him in the street and although unarmed himself he had calmly defied him to shoot had even waited until the braggart had returned the pistol to his pocket and walked away abashed. At another time he had engaged in a bar room fight with a much larger and stronger man who struck him on the cheek with a tumbler, making a wound which left a scar that he carried to his grave. When Stephen J. Field, a young member of the legislature from Marysville, could find no friend to carry a challenge to another member who had attacked him in the house, Broderick offered to take it and had so managed the matter that an ample apology was offered. He had subsequently

fought a duel himself with Caleb E. Smith, in March, 1852, in which his watch had stopped his adversary's bullet and so saved his life.

His moral courage, too, was well established. He had usually been among the earliest to declare his views on matters of public interest, particularly on those of party policy, such as the treatment of free negroes, the fugitive slave law and the Nebraska bill; he had usually stood for economy and honesty in governmental affairs; he had opposed the water lot bill, although he made no concealment of having profited later by speculation in water lots. His hands were clean and he could defy those who sometimes sought to make it appear that a part at least of his wealth had not been too honestly gained. He was not so fond of money as to care to accumulate it for any purpose except to supply his modest needs and help him to secure the one object of his ambition.

Gwin appeared to be quite as well provided with money as Broderick, though it was not as well known how he had come by it. He was married, had a family, lived in Washington, spent little time in California and while in the state preferred the showier part of political campaigning rather than its drudgery. Broderick was not only a more tireless worker, but he was Gwin's superior in planning both party and factional campaigns and a better tactician in conducting them. Neither was notable as a public speaker; Gwin had the larger experience in that kind of campaigning for Broderick did not engage in it until late in his career. Both were reasonably skilful in the use of those arts by which large assemblages are entertained and aroused to action,

WILLIAM M. GWIN

Born in Sumner county, Tennessee, October 9, 1805; died at New York, September 3, 1885; came to California on the Pacific Mail steamer *Panama*, June 4, 1849; member of Constitutional Convention; United States senator, 1850-55, 1857-61.



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though neither was a persuasive speaker, but preferred rather to be vehement and often vituperative.

Turning from the overwhelming defeat of his faction in the election of 1854 as soon as its result was known, Broderick immediately began to take account of what could be saved from the wreck and made use of for renewing the battle. He found that a handful of his staunch supporters had been elected to the legislature—not enough to give any hope of his own immediate success—but enough with others who were not favorable to Gwin to secure his defeat or prevent an election. Gwin's term would expire on March 3d, and if his election, or that of another could be prevented, his place would remain open to be filled by the succeeding legislature which would give Broderick another year in which to rally his forces. Since he could not hope for an election, he now set to work to prevent one.

By the time the legislature assembled it was found that the democrats would have seventy-four votes in joint session, and the whigs thirty-six. Of the seventy-four democrats, forty-two were for Gwin, twelve were Broderick's staunch friends, fourteen favored excongressman McCorkle, two were for James A. McDougal and the other four had each a candidate of his own; fifty-six would be required to elect. If a caucus were held it was plain that Gwin's supporters would control it; he would be nominated and all members who attended would then be bound, as loyal partisans to vote for him. At the preceding session Broderick had forced a caucus, but he must now oppose and defeat one or lose the battle. This would have been difficult, if not impossible, had he had no more than his own

friends to count on; but as all the other candidates opposed to Gwin were at least as much interested as he was, it was accomplished. After a prolonged contest in the legislature in which thirty-six ineffectual ballots were taken, all effort to secure an election was abandoned and again California was left to be represented at Washington by only one senator until another legislature should meet.

The whig party was by this time in the throes of disintegration. Dissensions in its national convention and the defeat of Scott, its nominee for president in 1852, had made an end of it as a cohesive political force. The repeal of the Missouri compromise by the Kansas-Nebraska bill in 1854 had made the slavery issue paramount and was bringing a new party into existence, though it was not yet formidable. The factions in the democratic party in California would probably have remained irreconcilable for some time longer had not another opposing force of unknown strength suddenly presented itself.

Something had been heard of the American or "Know Nothing" party in the campaign of 1854, though democratic leaders had taken little note of it. But in the spring elections of 1855 its candidates were successful in many towns, in some of which they were not publicly known to be candidates until the morning of election. The organization was secret; its members met in guarded lodge rooms to which only the initiated were admitted by its signs and passwords. It had had its beginning in an anti-Catholic movement in some of the eastern cities, and its general purposes were to oppose a union of church and state, to restrict foreign emigra-

tion, and secure the election of none but native born Americans to office. When questioned about the order or their connection with it its members were instructed to reply that they knew nothing about it; hence they soon came to be known as "Know Nothings." Most of the whigs and many democrats joined this new party and it became surprisingly strong.

The secrecy of its meetings and the reticence of its members about making known their connection with it, alarmed the democrats; and its unexpected show of strength at the spring elections made the need of harmony in that party urgent. Unless its two factions could be united and made to work harmoniously, it would be almost certain to lose control of the state; it would be impossible to elect democrats to congress, to the place in the senate already vacant, or to the one that would become vacant at the expiration of Weller's term in 1857. Every democratic place holder in the state, city, county, or federal service became instantly alert, while the rank and file of the party was scarcely less interested. This desire for harmony and united action was vastly to Broderick's advantage. Everybody recognized his superior ability as an organizer and manager of political campaigns and the desire to make use of it to save the party from possible defeat was so general that most of the animosities which his earlier campaigning had aroused were forgotten, or temporarily laid aside. He saw his advantage and prepared with his usual industry to make the most of it. As a first step the two committees of the preceding campaign must be brought together and a call issued by them jointly, or by a new committee formed from them, for a state convention. This was not difficult and when the time came Broderick was ready with a plan to form a new committee by taking alternate members from the old ones. Whether the lists of members already in existence suited his purpose, or whether he had prepared new lists for the occasion, does not now appear, but it soon became evident that the new committee so chosen was a Broderick organization. All his best friends and faithful adherents had been retained, while Senator Gwin's ablest supporters, or most of them had been retired from service. Its chairman, also chosen by a plan proposed, was quite as satisfactory to him as the committee; and so from being the head of a defeated minority faction, by this bit of clever management Broderick once more found himself the most powerful man in his party.

Had he used this power he had now regained as tactfully as he had used the means to regain it, both he and his party would have gained more than they did; but he could not do this. With him a giant's strength was to be used as a giant would use it; and by proceeding on that principle he almost immediately caused another rupture in the party though not a very serious one. The convention met at Sacramento on June 27th, and while the committee on credentials was considering the claims of contesting delegations, Broderick, who was not a member of it, entered the room and was requested to leave it. He refused and an altercation with Charles Scott of Tuolumne one of its members followed, which for a time threatened to end in bloodshed, though that it did not was not due to any moderation of Broderick's aggressiveness.

This, however, was merely an incident and not a cause of the dissension in the convention; that arose over the nomination for governor. The candidates were Milton S. Latham, James Walsh, J. W. McCorkle, Richard Roman, C. A. Clark, and John Bigler. The latter had now served two terms, and had made enemies by his persistent advocacy of the San Francisco water front matter—which he had urged in nearly all of his messages—as well as by other unpopular acts and policies. There had been scandals about the state printing and about the management of the penitentiary, or rather the convicts, for there was as yet no penitentiary worthy of the name. The labor of the convicts had been leased to contractors who employed them in various ways, being responsible for their safe keeping meantime. One of the contractors was James M. Estill, state senator, and an active politician, once Bigler's friend, but now an implacable opponent. The expenses of government had been great during his two administrations, and though he had more than once pointed out how they might be reduced by biennial instead of annual sessions of the legislature—saving the cost of one session as well as the expense of an election every two years—and also by reducing the number of officials and cutting off other expenses, he had gained nothing by it. The legislature had paid little attention to his advice; he had gained few compliments for his suggestions, while every placeman whose employment he had threatened had become his opponent. Broderick, however, was his friend and insisted on his nomination for a third term in spite of the fact that a majority of the convention opposed. His influence prevailed; Bigler was renominated on the second ballot as was Purdy, the popular lieutenant-governor, who in the preceding election had run so far ahead of him.

That this would be the result had been apparent when J. W. McCorkle and his delegation from Butte county, whose seats had been contested, had been admitted; for McCorkle was an uncompromising opponent of Latham. He had trusted to him to secure his renomination when in congress and Latham had secured it for himself; worse still he had won the woman whom McCorkle had hoped to make his own wife. Since then he had opposed Latham's every ambition and it was certain he would do so now. It was equally certain that the admission of his delegation would give Bigler the nomination and it was for that reason that a few of the delegates withdrew rather than be bound to support him.

The platform adopted was chiefly devoted to a denunciation of the secret methods of the opposition, though the temperance movement which was beginning to be so far active in the state that a temperance convention was held that year, was recognized by a resolution that "sober men and sober men only should be presented for the suffrages of moral and intelligent freemen."

The convention of the American party was held in August. Its platform declared for "a judicious revision of the laws regulating naturalization," for "universal religious toleration," against "union of church and state," and that "eligibility to office, both in state

and nation, should be restricted to persons born in some part of the territory included within the jurisdiction of the United States."

It nominated J. Neely Johnson for governor, Robert M. Anderson for lieutenant-governor, and David S. Terry, who had hitherto acted with the whig party, to fill a vacancy on the bench of the Supreme Court.

A convention of settlers and miners was also held at Sacramento in July. It nominated no ticket but declared against "the indiscriminate confirmation of Mexican land grants." No party, they said, had hitherto done anything to protect innocent settlers against frauds perpetrated by speculators in these claims, many of which were undefined and some wholly without merit. They resolved to support no man who had not previously shown, by word and deed, that he was in sympathy with the settlers and opposed to all fraudulent land claims.

At the election held on September 5th, the "Know Nothing" ticket was successful. The total vote cast fell but a little short of 97,000. Bigler was defeated by a little over 5,000 and Purdy by less than 2,000.

Interest now centered in the meeting of the legislature in January, when it was supposed that a "Know Nothing" senator would be chosen to fill the vacant seat which Gwin had occupied. The candidates were Ex-governor and Ex-senator Henry S. Foote of Mississippi, who like Gwin and Broderick had come to California avowedly to be returned to the senate, Edward Marshall, Henry A. Crabb, and W. I. Ferguson, though the claims of the last named were not at the time regarded very seriously. He was a young lawyer of

Sacramento of brilliant natural ability, genial character, and a general good fellow who, at the assemblies of the senators and members in the hotel rotundas, or in places where glasses clinked merrily until far into the night, was always ready to entertain with song, or story, "or flash of merriment that set the table in a roar." This happy faculty had won for him the unenviable title of "ipse-doodle," not a very favorable recommendation for an aspirant to a place so dignified as a seat in the senate; it later suddenly and surprisingly opened the door for him into the dark unknown and connected his name inseparably with that of another, who should also meet death in the same way.

Foote for a time seemed quite confident of election although it was known and urged against him that he had violently opposed and materially helped to defeat the creation of a territorial government for California in 1849, and that he had stood out with Jefferson Davis and others for a division of it in 1850 so that its southern part might be open to slavery. Marshall and Crabb were able men, the latter an excellent politician and a recognized leader in the whig party.

The contest as between these candidates was never decided except in caucus; in the legislature it did not even become interesting. The law prescribing the mode of electing senators at that time provided that they should be chosen in a joint session of the legislature, to be held "on such day as may be agreed to by both houses"; it did not require them to agree, and there was no law prescribing what should be done in case they did not agree. While the whigs had a majority in the assembly the democrats controlled the senate; and

the democrats would not fix a date for a joint meeting. It was to the interest of both Gwin and Broderick to defeat an election and there was therefore no difficulty in preventing an agreement. Much time was wasted in futile efforts to make an election possible, but the democrats and some of the "Know Nothings" who feared Foote's election prevented it. The legislature adjourned leaving both places in the senate open to contest; for Weller's term would expire in March, 1857.

Broderick and Gwin now began a contest for these seats and the choice between them, that is memorable in the political history of the state. A presidential election was coming on and it would be desirable to be known as having been influential in giving the vote of the state to the democratic candidate, in case of his election, which seemed probable. Most of all it was important to secure the election of a majority of democrats to the next legislature, and for Broderick and Gwin to secure as many friends as they could among such members. Gwin had the advantage of having the federal office holders to work for him, and provide funds for the expenses of his campaign, while Broderick could rely on none but those who clung to him because of belief in his ability to command success. The patronage of the state was now controlled by his political opponents, and San Francisco was disturbed by a social uprising that not only greatly weakened his influence, but placed him under suspicion and even threatened his liberty of action. He was to begin the battle almost single handed.

The presidential campaign began early. The state council of the "Know Nothing" party had met in

secret session at Sacramento in November, 1855, and put forth a long address in which California was declared to be "the best taxed and worst governed country of which there is any record." Calamity had been heaped on calamity "until the young state which yesterday filled the world with her renown, today lies bankrupt, crime ridden, and abject." The old parties were arraigned for having subordinated matters of real interest in the state, to those which had "convulsed the old states since 1789" in which California had little interest. They had asked for reform in the state government, for a railroad connecting their state with the east, for a speedy settlement of land titles, for homes for homeless settlers, and for protection against lynch law, judicial corruption, and imbecility, and had been answered by the Nebraska bill and a clamor about the annexation of Cuba. People were weary of such subterfuge and now demanded protection for their votes against "the tricks and frauds of bullies and knaves," a purification of the fountains of both civil and criminal jurisprudence, a more economical and responsible administration of their state government, and laws for the support and maintenance of a system of common schools that should be wholly uncontrolled by sectarian influence.

The democratic convention to name delegates to the national convention met at Sacramento in March. Broderick's delegation from San Francisco was opposed by a contesting delegation, but the contestants were beaten after a struggle that lasted through the better part of the first day's session. The resolutions adopted were aimed mostly at the American party, though one

approved the doctrine of "popular sovereignty" as expressed in the Kansas-Nebraska bill, and another declared the preference of the party for James Buchanan over all other candidates for the presidency, which was a virtual instruction to the delegates to vote for him and no other. As Douglas was also a candidate, and as the Kansas-Nebraska doctrine was notably his pet issue, the endorsement of it by one resolution, and the instruction of the delegation for Buchanan by another, gave him the praise while giving the prize to his opponent. The convention also approved the action of the state legislature in preventing the election of a senator at the preceding session, and condemned the election of N. P. Banks as speaker of the house of representatives, as "dangerous to the peace and harmony of the people of the United States."

A convention of republicans, then a new party scarcely yet formed, was held at Sacramento this year. It met on the last day of April and was attended by only one hundred and twenty-five delegates, sixty-six of whom were from San Francisco and Sacramento; only eleven other counties were represented. The doctrines of the party were not received with much favor at that time. An open public meeting in Sacramento had been broken up by opponents of the party only a few days before, and when a week or two later a public debate was announced, rotten eggs were thrown, fire crackers burned, and so much disturbance created that the speakers could not be heard. After they retired others took possession of the stand and a resolution was adopted declaring that "the people of this city have

been outraged by the discussion of treasonable doctrines by a public felon, and that we will not submit to such an outrage in future."*

Later in the year conventions were held by all parties, to nominate candidates for congress, for clerk of the Supreme Court and for a school superintendent, and still further declarations of principles were made. The campaign was waged with more than usual activity and often with acerbity. The democrats and Americans assailed the new party with much bitterness, denouncing it as fanatical and intolerant, and its members as abolitionists, nigger worshippers, and black republicans. "We tell our readers," said the "State Journal" of Sacramento, "there is dangerous meaning in the spectacle of political degredation now before us, and that it is high time all national men should unite in saving California from the stain of abolitionism." The "Morning Globe" of San Francisco directed its attacks mainly at Colonel Frémont, then the republican nominee for president, charging him with having sold out his prospects for reëlection to the senate in 1851 for a beef contract, through which he had subsequently become involved with the banking house of Palmer, Cook, and Company, then under much suspicion in the state, in transactions not at all to his credit.

On July 1, 1856, the state had defaulted in the payment of the interest then due on its bonds in New York, although the treasurer, Henry Bates, had turned the money—some \$88,000—over to Palmer, Cook, and Company in April to meet it. He had done this, however, in an irregular way, without recognizing

^{*}Political Conventions in California, p. 62.

the controller and without taking any security for the money. As Palmer, Cook, and Company were his bondsmen, and also sureties for other state and city officers, it was made to appear that the deposit had been made by collusion, for the convenience of the bankers, who intended to use the money for their own purposes, hoping to replace it in time with funds from Frémont's beef contract, but had failed to do so. Funds to meet the interest coming due at the same time on bonds of the city of San Francisco, had also been deposited with these bankers, in a similar way, and had similarly disappeared, so they were at the time in particular disfavor.

To be charged with any sort of relations with bankers in such a predicament was bad enough for a candidate for the presidency; but according to the "Globe," Frémont's condition had become that of a subservient tool.* He had borrowed largely of the bank's funds, and had pledged his Mariposa grant as security, and that property then supposed to be of almost limitless value, had passed out of his control. It was even charged that the money deposited by the state and city to pay the interest which had been defaulted, had been used to secure Frémont's nomination, in the expectation that in the event of his election Palmer, Cook, and Company might make themselves "the Rothschilds of America."

These charges appear to have attracted no attention—or very little at least,† outside of California. In the

^{*}The "Morning Globe," August 16, 1856. †The "New York Herald" on July 5th denied that Frémont had any connection with Palmer, Cook, and Company, except that they had advanced money to help him save his Mariposa grant. The denial was made in its money market article.

east more attention to charges that he was a Roman Catholic; that during the sixteen days he had sat in the senate, he had voted three times with the proslavery party against measures proposed or supported by Seward, Hale, and Chase, and that if elected foreign born citizens, particularly the Germans, who were supporting him, might expect few favors at his hands. In California their effect was probably less harmful than those who made them hoped, for the vote for the Frémont electors was surprisingly large. Those who had attended the earlier party meetings had hoped for little more than to establish an organization, but at the end of the campaign they found their candidates had received nearly twenty per cent of the votes cast.

The dereliction of the "Know Nothing" state treasurer undoubtedly put his party at a great disadvantage during the campaign. It had made loud protestations of "a stern and unqualified opposition to all corruption and fraud in high places" when he was nominated; had declared "in favor of the Jeffersonian test in selecting men for office, viz, Is he honest? Is he capable?" and now within six months after his installation in office the state had lost \$88,000 through his mismanagement. The controller was also sharply criticized, and at the succeeding session of the legislature both were impeached.

During the summer Broderick made a very quiet but active personal campaign, giving his attention largely to the election of members of the legislature. Accompanied usually by Senator Frank Tilford, one of his staunchest friends, he visited most of the counties, seeing to it that friendly candidates for both the assembly and senate, where senators were to be chosen, were named, and giving such assistance as he could to those he could most confidently rely upon to vote for him in case of their election. He was no longer as rich as he had once believed himself to be. The financial depression of the preceding year had cost him dear. While still owning a good deal of property, little of it was producing revenue and much of it was mortgaged. Still he found means to do what was necessary and capable political friends in most of the counties and districts, working under his direction, were constantly alert and active. Gwin on his part was not idle, though he was far from being Broderick's equal either in planning or carrying on a campaign. But he still had a considerable retinue of federal office holders as his retainers, and he left them to look after details which he was little inclined to bother with himself.

As early as April in the campaign year, if we may believe a friendly historian* who appears to have enjoyed something of Gwin's confidence, he sent a trusted friend to Broderick to propose an arrangement by which the "acrimony, schism, disaffection and fierce partisan hostility of the campaign might be lessened, party harmony restored and party success made more certain." The conference was private and the nature of the proposal made is not stated but we are told that "an arrangement was concluded to the virtual satisfaction of the parties most interested." This arrangement was that Broderick should seek the place to be vacated by Weller, while Gwin would confine his efforts to securing reëlection to the chair he had himself vacated two years earlier.

^{*}James O'Meara, Broderick and Gwin, Chapter XIV.

Evidently Gwin's purpose in seeking this conference was to make a hard and fast agreement with Broderick to secure the two places for themselves as against all other competitors. To induce Broderick to seek the full term of six years in preference to the other, of which only four years would remain, would not be difficult. A man of Broderick's ambition and fondness for political management was not likely to seek a fraction of a term when a full term was available. To propose that he take the greater prize while the proposer would content himself with the lesser, was on Gwin's part a confession of weakness, an admission that he no longer hoped to be first in the race, and feared he might not even be second; for there were already several other candidates. It would, however, have been of great advantage to the weaker candidate to secure an arrangement with the one who was certain to be strongest, to stand together as against all other competitors, with an understanding as to which place each should have in case of victory. But no such agreement was made. Broderick appears to have been in no very pleasant humor and to have agreed only that he would seek the long term while Gwin should not.

At the election in November the democrats were successful as was to have been expected when the opposition divided. A total of 107,387 votes was cast of which the Buchanan electors received 51,935; Fillmore 35,113; Frémont 20,339; Charles L. Scott and Joseph C. Mc-Kibben were elected to congress and the new legislature was largely democratic, although an independent peoples party ticket had been successful in San Francisco, which had hitherto been Broderick's stronghold.

The new legislature met on January 5th, and the senatorial election was the first matter of absorbing interest to receive attention. Broderick, Weller, and Gwin were the leading candidates, but no one of them was sure of votes enough to secure a nomination in the democratic caucus. Ex-congressman Latham, now collector of customs at San Francisco, had a considerable following, as had his dearest enemy, J. W. Mc-Corkle, while Colonel B. F. Washington, Stephen J. Field, and A. P. Crittenden each had a few supporters.

Senator Weller was still in Washington but Judge Solomon Heydenfeldt was manager of his campaign, and with him Broderick first sought to make terms, though without success. Weller wished reëlection as his own successor, and as Broderick was bent on having that place, no accommodation between them was possible. As time passed, however, Broderick found his position so strong that he did not need to make concessions, and he hit upon a plan not only to make his own election certain, but to name his colleague, and upon terms that he should himself dictate. His plan was to have the candidate for the full term chosen first, knowing no doubt that the short term would not be awarded until his aid would be sought, and he would have opportunity to make the arrangement he wished. This plan was not disclosed to any but his own supporters until the caucus had assembled when the opposition were taken by surprise while his friends had arranged every move that was necessary to secure success. Ordinarily it would have been natural to nominate for a place that had been vacant nearly two years, before proceeding to fill one not yet vacated; but as soon as the caucus had been organized and its members pledged to support its nominees in the usual fashion the Broderick plan was proposed. A substitute was immediately offered by a Gwin man, but Frank Tilford moved the previous question and it was carried by a vote of 47 to 32. Gwin's friends then sought to procure an adjournment but were unsuccessful. The names of Broderick and Weller were proposed and Broderick won on the first ballot, the vote subsequently being made unanimous.

Two ballots were then taken for the short term. The first gave Gwin 26, Latham 21, McCorkle 15, Washington 7, Field 7, Crittenden 2, James W. Denver 1; the second showed only the change of one or two votes, and the caucus then adjourned. Broderick had not only won his own nomination by a very clever bit political strategy, but was now in a place to make terms with any other candidate who, to gain election, was weak enough to yield what he would demand.

On the following day the legislature in joint session ratified the action of the caucus and the governor immediately signed the certificate of election which made Broderick senator. He had realized his ambition and could now, as he supposed, exact some satisfaction from those who had hindered him.

The caucus reassembled on the evening of January 9th when four ballots were taken without materially changing the prospects of the candidates. On the following evening four more ballots were taken without a choice. So far no one of the candidates appears to have sought Broderick's assistance; at least none had made the abject surrender he had determined to exact.

But on Sunday night, long after most of the interested legislators had sought their rooms and few other people were abroad, Senator Gwin, accompanied only by one trusted friend, both so closely wrapped in overcoats and other outer garments as to conceal their identity from all but the most prying observers, left the Orleans hotel in which Gwin's rooms were, by a rear entrance, and passing through an alley used only by market men and others of their kind, hurried across the only street between them and the rear entrance to the Magnolia in which Broderick had his headquarters. This was reached through another alley at the end of which Gwin's companion left him and a trusted friend of Broderick's escorted him to the latter's room.

There in the middle of the night a compact was made between the senator elect, and the man who wished to be senator, the full meaning of which was not known until nearly three years later, but the nature of which was correctly guessed much earlier. It was made in writing, in the form of a letter addressed by Gwin to Broderick; but it was not kept, though in the hour of his deep humiliation Gwin perhaps as fully intended to keep it as Broderick intended he should. That he had no thought at that time of pursuing the policy of Cardinal Richelieu—to "promise and see that the King withholds"-is indicated by the letter which he published two days later, in which he warned his supporters that he would not be able henceforth to do much for them. "To the federal patronage in the state," he said, "do I attribute, in a great degree, the malice and hostile energy which, after years of faithful public service, and toward the closing period of life, have

nearly cost me the indorsement of a reelection to the United States senate. From patronage then, and the curse it entails, I shall gladly in future turn, and my sole labor and ambitions henceforth, shall be to deserve well of the state, and to justify the choice of the legislature in honoring me a second time as a representative of its interests."

This letter was not published until he had secured the prize he had sacrificed so much to gain. The caucus reassembled on Monday evening January 12th. The first and second ballot showed but little change from those previously taken, but on the third—the fourteenth of the contest—those who had voted for Field, and some who had supported McCorkle, always Broderick's steadfast friends, went to Gwin and he was nominated by 47 votes over Latham whose 26 adherents stood staunchly by him to the last.

Gwin invited all members of the legislature to a collation at his home in San Francisco, and most of them accepted. Broderick was welcomed on his return with an ovation. No conqueror bringing captives in his train, or tribute from subjugated nations to fill the general coffers, could have received heartier or more generous welcome. From a series of defeats he had at last wrested victory. His ambition was achieved; but as a conqueror he had exacted more than should have belonged to him, and it was soon to turn to ashes in his hands.

APPENDIX I.

VOLUME III.

BUCHANAN TO LARKIN

THE LETTER NOTIFYING LARKIN OF HIS APPOINTMENT
AS CONFIDENTIAL AGENT AND CONTAINING
HIS INSTRUCTIONS

Department of State, Washington, Oct. 17th, 1845.

Thomas O. Larkin, Esqre., Consul of the United States, at Monterey, California.

Sir:

I feel much indebted to you for the information which you have communicated to the Department from time to time in relation to California. The future destiny of that Country is a subject of anxious solicitude for the Government and people of the United States. The interests of our Commerce and our Whale fisheries on the Pacific Ocean, demand that you should exert the greatest vigilance in discovering and defeating any attempts which may be made by Foreign Governments to acquire a control over that Country. In the contest between Mexico and California we can take no part, unless the former should commence hostilities against the United States; but should California assert and maintain her independence, we shall render her all the kind offices in our power as a Sister Republic. This Government has no ambitious aspirations to gratify and no desire to extend our Federal system over more Territory than we already possess, unless by the free and spontaneous wish of the Independent people of adjoining Territories. The exercise of compulsion or improper influence to accomplish such a result would be repugnant both to the policy and principles of this Government. But whilst

these are the sentiments of the President, he could not view with indifference the transfer of California to Great Britain or any other European power. The system of colonization by foreign Monarchies on the North American continent must and will be resisted by the United States. It could result in nothing but evil to the Colonists under their dominion who desire to secure for themselves the blessings of liberty by means of Republican Institutions; whilst it would be highly prejudicial to the best interests of the United States. Nor would it in the end benefit such foreign Monarchies. On the contrary, even Great Britain by the acquisition of California would sow the seeds of future War and disaster for herself; because there is no political truth more certain that that this fine Province could not long be held in vassalage by any European Power. The emigration to it of people from the United States would soon render this impossible.

I am induced to make these remarks in consequence of the information communicated to this Department in your Despatch of the 10th of July last. From this it appears that Mr. Rea. the Agent of the British Hudson Bay Company furnished the Californians with arms and money in October and November last, to enable them to expel the Mexicans from the Country; and you state that this policy has been reversed and now no doubt exists there, but that the Mexican troops about to invade the Province have been sent for this purpose at the instigation of the British Government; and that "it is rumored that two English Houses in Mexico have become bound to the new General to accept his drafts for funds to pay his troops for eighteen months." Connected with these circumstances, the appearance of a British Vice-Consul and a French Consul in California, at the present crisis, without any apparent Commercial business, is well calculated to produce the impression, that their respective Governments entertain designs on that Country which must necessarily be hostile to its interests. On all proper occasions, you should not fail prudently to warn the Government and people of California of the danger of such an interference to their peace and prosperity to inspire them with a jealousy of European dominion and to arouse in their bosoms that love of liberty and independence so

natural to the American Continent. Whilst I repeat that this Government does not, under existing circumstances, intend to interfere between Mexico and California, they would vigorously interpose to prevent the latter from becoming a British or French Colony. In this they might surely expect the aid of the Californians themselves.

Whilst the President will make no effort and use no influence to induce California to become one of the free and independent States of this Union, yet if the People should desire to unite their destiny with ours, they would be received as brethren, whenever this can be done, without affording Mexico just cause for complaint. Their true policy, for the present, in regard to this question, is to let events take their course, unless an attempt should be made to transfer them, without their consent, either to Great Britain or France. This they ought to resist by all the means in their power as ruinous to their best interests and destructive of their freedom and independence.

I am rejoiced to learn that "our Countrymen continue to receive every assurance of safety and protection from the present Government" of California, and that they manifest so much confidence in you as Consul of the United States. You may assure them of the cordial sympathy and friendship of the President, and that their conduct is appreciated by him as it deserves.

In addition to your Consular functions, the President has thought proper to appoint you a confidential agent in California; and you may consider the present Despatch as your authority for acting in this character. The confidence which he reposes in your patriotism and discretion is evinced by conferring upon you this delicate and important trust. You will take care not to awaken the jealousy of the French and English agents there by assuming any other than your Consular character. Lieutenant Archibald H. Gillespie of the Marine Corps will immediately proceed to Monterey and will probably reach you before this Despatch. He is a Gentleman in whom the President reposes entire confidence. He has seen these instructions and will cooperate as a confidential agent with you, in carrying them into execution.

You will not fail by every safe opportunity to keep the Department advised of the progress of events in California, and the disposition of the authorities and people towards the United States and other Governments. We should, also, be pleased to learn what is the aggregate population of that Province, and the force it can bring into the field—what is the proportion of Mexican, American, British and French Citizens, and the feelings of each class towards the United States—the names and character of the principal persons in the Executive, Legislative, and Judicial Departments of the Government, and of other distinguished and influential Citizens—its financial system and resources, the amount and nature of its commerce with Foreign Nations, its productions which might with advantage be imported into the United States, and the productions of the United States which might with advantage be received in exchange.

It would, also, be interesting to the Department to learn in which part of California the principal American settlements exist—the rate at which the number of Settlers have been and still are increasing—from what portions of the Union they come and by what routes they arrive in the Country.

These specifications are not intended to limit your enquiries. On the contrary it is expected that you will collect and communicate to the Department all the information respecting California which may be useful or important to the United States.

Your compensation will be at the rate of Six Dollars per day from the time of the arrival of this Despatch or of Lieutenant Gillespie at Monterey. You will also be allowed your necessary travelling and other expenses incurred in accomplishing the objects of your appointment; but you will be careful to keep an accurate account of these expenditures and procure vouchers for them in all cases where this is practicable without interfering with the successful performance of your duties. For these expenses and your per diem allowance, you are authorized to draw from time to time on the Department.

I am, Sir, Respectfully,
Your obedient Servant,
JAMES BUCHANAN.







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